



VARIATIONS ON FELONY PROBATION

**Persons Under Supervision
In 32 Urban & Suburban Counties**

131580

U.S. Department of Justice
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this [redacted] material has been granted by

Public Domain/RJS/NACJP
U.S. Department of Justice

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the [redacted] owner.

131580

THE NATIONAL ASSOCIATION OF CRIMINAL JUSTICE PLANNERS

VARIATIONS ON FELONY PROBATION
PERSONS UNDER SUPERVISION IN 32 URBAN AND SUBURBAN COUNTIES

by

Mark A. Cunniff
Executive Director
National Association of Criminal Justice Planners

and

Mary K. Shilton
Assistant Director
National Association of Criminal Justice Planners

BJS/NACJP
Statistical Series Project

March, 1991

This report was prepared for the Bureau of Justice Statistics, U.S. Department of Justice by the National Association of Criminal Justice Planners under cooperative agreement number 87BJ-CX-0005. Points of view or opinions stated in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

TABLE OF CONTENTS

Table of Contents	iii
Index of Tables and Charts	vii
Acknowledgements	xiii
Executive Summary	xvii
Chapter 1--Placing Probation in Context	1
Introduction	1
Approach	1
Nature of Probation's Workload	1
Tougher Clientele?	1
The Impact of Drug Cases	2
Differential Use of Probation	2
The Sentencing Context	2
Variable Probation Rates	3
Variations in Risk	3
Topics to be Examined	5
Chapter 2--Characteristics of Felony Probationers	6
Introduction	6
Distributions Across Conviction Offense	6
Distribution Within Conviction Offense	7
Demographics and Sentencing to Probation	8
Probation Sentencing and Demographics	9
Selected Characteristics by Age	9
Selected Characteristics by Conviction Offense	11
Summary	12
Chapter 3--Risk Assessment	13
Introduction	13
Presentence Investigations	13
Use of PSI's	13
Classification Techniques	14
Supervision Levels	14
PSI by Supervision Level	15
Initial Level of Supervision by Conviction Offense	15
Risk Assessment and Supervision Levels	16
Risk Characteristics and Supervision Level	16
Demographics and Supervision Level	18
Probation Officer Assignment	19
Jurisdictional Use of Supervision Levels	20
Summary	20
Chapter 4--Behavioral Conditions of Probation	21
Introduction	21
Behavioral Conditions	21
The Purposes of Behavioral Conditions	21
Prevalence of Behavioral Conditions	23

Jurisdictional Variation	23
Conviction Offense and Behavioral Conditions	25
Risk Variables and Behavioral Conditions	26
Compliance with Behavioral Conditions	28
Compliance and Status of Probation	28
Type of Conditions by Degree of Compliance	29
Conviction Offense and Compliance	30
Compliance and the Number of Conditions	30
Split Sentences	30
Summary	31
Chapter 5--Financial Conditions of Probation	32
Introductions	32
Financial Assessments by Conviction Offense	32
Financial Assessments by Jurisdiction	33
Average Assessments by Jurisdiction	35
Average Payment by Jurisdictions	36
Assessments and Payments by Conviction Offense	37
Risk Factors and Assessments.....	38
Amount Assessed and Percent Paid	40
Probation Status & Complying with Financial Conditions.	40
Summary	41
Chapter 6--Formal Disciplinary Hearings	42
Introduction	42
Jurisdictional Variations in Use of Disciplinary Hearings.....	42
Risk and Disciplinary Hearings	44
Probationer Characteristics	45
Discipline and Conviction Offense	47
Behavioral Conditions and Discipline	47
Factors Behind Each Hearing	48
Time to First Hearing	48
Summary	49
Chapter 7--Felony Arrests While Under Supervision	51
Introduction	51
Arrest Records	51
Identifying Probationers with Arrests	53
Characteristics of Felony Arrests	53
Number of Arrests	53
Arrest Offenses	53
Elapsed Time to First Rearrest	54
New Arrests Lead to Incarceration	55
Outcomes Vary by Arrest Offense	55
Probation Rates Correlate with Arrests	56
Arrest Rates Vary by Conviction Offense	57
Risk Factors Correlate with Arrest Rates	58
Probationer Demographics Affect Arrest Rates	59
Summary	60

Chapter 8--Probation Supervision Status	62
Introduction	62
Probation Outcomes	62
Administrative Matters and Supervision Status	63
PSI's and Revocation	63
Supervision Level and Revocation	64
Risk Score and Revocation	64
Probation Status and Risk Factors	65
Probationer Characteristics and Revocation	66
Jurisdictional Variations in Revocation	66
Arrests Lead to Revocation	68
The Path to Prison	69
Intermediate Sanctions	71
Summary	71
Chapter 9--Conclusion	72
Workload Characteristics	72
Sentencing Philosophies	72
Program Resources	73
Dealing with Risk	73
Probationer Performance	73
Probationer Compliance	73
Community Probation	74
Appendix A--Methodology	A-1
Background	A-1
Sampling	A-1
Standard Error	A-2
Offense Classification	A-2
Exposure to Probation	A-4
Data Sources	A-5
Questionnaire	A-5
Arrest Data	A-6
Locating Cases	A-6
Use of the Mean as the Average	A-7
Appendix B--Questionnaire	B-1
Appendix C--Arrest Data Collection Form	C-1

LIST OF TABLES

Table 1.1:	Percent Of Sentences To Probation From 1983 To 1988, By Conviction Offense	2
Table 1.2:	Profile Of The Population Size, The Percent Of 1986 Felony Sentences To Probation And The Number Of Persons Sentenced To Probation In 1986 Per 100,000 Population For The Thirty-two Jurisdictions Participating In This Study	4
Table 2.1:	Percent Distribution Of Probationers Across Offense Categories, By Various Demographic Characteristics Of The Offender, 1986	6
Table 2.2:	Percent Of Probationers Who Exhibit Selected Demographic Characteristics By Conviction Offense, 1986	7
Table 2.3:	Percent Of Sentences To Probation, By Various Demographic Characteristics Of The Offender, 1986	8
Table 2.4:	Percent Of Probationers With Selected Social And Behavioral Characteristics, By Age	10
Table 2.5:	Percent Of Probationers With Selected Social And Behavioral Characteristics By Conviction Offense, 1986	11
Table 3.1:	Percent Of Probation Cases That Had A Pre-Sentence Investigation Report (PSI) Written And Whether That Report Recommended Probation, By Conviction Offense	14
Table 3.2:	Percent Of Probation Cases That Had A Pre-Sentence Investigation Report (PSI) Written And Whether That Report Recommended Probation, By Initial Supervision Level	15
Table 3.3:	Percent Distribution Of Probationers Across Initial Level of Supervision, By Conviction Offense, 1986	16
Table 3.4:	Percent Distribution Of Probationers Across Initial Supervision Level Categories By Selected Risk Characteristics Of The Offender, 1986	17
Table 3.5:	Percent Distribution Of Probationers Across Initial Supervision Level Categories By Various Characteristics Of The Offender, 1986	18

Table 3.6:	Percent Distribution Of Probationers Across Initial Supervision Level Categories By Probation Officer Caseloads, 1986	19
Table 3.7:	Percent Distribution Of Probationers Across Initial Supervision Level Categories By The Number of Probation Officers That The Probationer Had While Under Supervision, 1986	19
Table 4.1:	Percent Of Felony Probationers Who Receive Court Imposed Conditions, Along With The Type of Condition, By Jurisdiction	22
Table 4.2:	Percent Of Felony Probationers Who Receive Court Imposed Conditions, Along With The Type Of Condition, By Conviction Offense	24
Table 4.3:	Percent Of Felony Probationers Who Receive Court Imposed Conditions Along With The Type Of Condition, By Risk Characteristics	25
Table 4.4:	Percent Distribution Of Probationers Who Received Court Imposed Behavioral Conditions Across The Extent Of Their Compliance With Those Conditions, By Probationer Risk Characteristics	27
Table 4.5:	Percent Distribution Of Probationers Who Received Court Imposed Behavioral Conditions Across The Extent Of Their Compliance With Those Conditions, By Whether Or Not The Person Is Still On Probation	29
Table 4.6:	Percent Distribution For The Satisfaction Of Court Imposed Conditions, By Type Of Condition Imposed	29
Table 4.7:	Percent Distribution Of Probationers Who Received Court Imposed Behavioral Conditions Across The Extent Of Their Compliance With Those Conditions, By Jurisdiction	30
Table 4.8:	Percent Distribution Of Probationers Who Received Court Imposed Behavioral Conditions Across The Extent Of Their Compliance With Those Conditions, By The Number Of Conditions Imposed	30
Table 4.9:	Percent Of Probationers With Jail Terms And The Average Term Imposed By Jurisdiction, 1986	31
Table 5.1:	Percent Of Felony Probationers Who Receive Various Court Imposed Financial Assessments By Conviction Offense	33

Table 5.2:	Percent Of Felony Probationers Who Receive Various Court Imposed Financial Assessments By Jurisdiction	34
Table 5.3:	Average Dollar Assessment Imposed On Felony Probationer For Various Financial Conditions By Jurisdiction	36
Table 5.4:	Average Dollar Assessment Imposed On Felony Probationers, Average Payment And The Percent Paid Of Total Assessment, By Jurisdiction	37
Table 5.5:	Display Of The Average Assessment Imposed, Average Payment Made And The Percent Of Total Assessment Paid, By Conviction Offense	38
Table 5.6:	Display Of The Average Assessment Imposed, The Average Payment Made And The Percent Of The Total Assessment Paid, By Selected Risk Characteristics	39
Table 5.7:	Percent Distribution Of Probationers Who Received Court Imposed Financial Assessments Across The Extent Of Their Compliance With Those Conditions By Whether Or Not The Person Is Still On Probation	40
Table 5.8:	Display Of The Average Assessment Imposed, Average Payment Made And The Percent Of The Total Assessment Paid	40
Table 6.1:	Percent Of Probationers With At Least One Disciplinary Hearing And The Percent Distribution Of Probationers Across The Principal Precipitating Factors For The First Disciplinary Hearing By Jurisdiction, 1986	43
Table 6.2:	Percent Of Probationers With At Least One Disciplinary Hearing And The Percent Distribution Of Probationers Across The Factors That Precipitated The First Disciplinary Hearing, By Various Risk Characteristics Of The Probationer	44
Table 6.3:	Percent Of Probationers With At Least One Disciplinary Hearing And The Percent Distribution Of Probationers Across The Principal Precipitating Factors For The First Disciplinary Hearing, By Various Characteristics Of The Probationer ...	46
Table 6.4:	Percent Of Probationers With At Least One Disciplinary Hearing And The Percent Distribution Of Probationers Across The Principal Precipitating Factors For The First Disciplinary Hearing, By The Conviction Offense Of The Probationer	47

Table 6.5:	Percent Distribution For The Number Of Probation Disciplinary Hearings, By The Number Of Behavioral Conditions Imposed	48
Table 6.6:	Percent Distribution For The Principal Precipitating Factor Behind The Invocation Of Each Of The Formal Disciplinary Hearings Held	48
Table 6.7:	Percent Distribution Of Probationers Across The Principal Precipitating Factor For First Disciplinary Hearing, By The Time At Which The Violation Occurred	49
Table 6.8:	Percent Distribution Of Probationers Across The Principal Precipitating Factor Elapsed Time Between The First Violation And The First Disciplinary Hearing	49
Table 7.1:	Percent Distribution Of The Arrest Offenses, For The First, Second And Third Arrests For Probationers Who Are Arrested For Felony Offenses While Under Supervision	53
Table 7.2:	Percent Distribution For The Time To The First Felony Arrest While Under Supervision, By Arrest Offense	54
Table 7.3:	Type Of Sentence Imposed On Probationers Arrested For A Felony While Under Supervision By Number Of Arrests	55
Table 7.4:	Type Of Sentence Imposed On Probationers Arrested For A Felony While Under Supervision, By First Arrest Offense	55
Table 7.5:	Percent Distribution For The Probationer's Arrest Offense, By The Disposition Offense	56
Table 7.6:	Percent Of Probationers With At Least One Felony Arrest, By Jurisdiction	57
Table 7.7:	Percent Of Probationers Who Are Arrested While Under Supervision, By Original Conviction Offense ...	57
Table 7.8:	Percent Distribution For The Probationer's Arrest offense, By The Original Conviction Offense ...	58
Table 7.9:	Percent Of Probationers With At Least One Felony Arrest And The Percent Distribution Of Probationers Across The First Arrest Offense, By Various Risk Characteristics Of The Probationer	59

Table 7.10:	Percent Of Probationers With At Least One Felony Arrest, By Various Demographic Characteristics of The Probationer	60
Table 8.1:	Percent Distribution Of Probationers Across Their Supervision Status, By Conviction Offense	63
Table 8.2:	Percent Distribution Of Probationers Across Their Supervision Status, By Initial Supervision Level, The PSI Recommendation And The Number Of Probationers Assigned To Supervising Probation Officers	64
Table 8.3:	Percent Distribution Of Probationers Across Their Supervision Status, By Selected RISK Characteristics'.....	65
Table 8.4:	Percent Distribution Of Probationers Across Their Supervision Status, By Selected Demographic Characteristics	67
Table 8.5:	Percent Distribution Of Probationers Across Their Supervision Status, By Jurisdiction	68
Table 8.6:	Percent Distribution For The Outcomes Of The First Disciplinary Hearing, By What Precipitated The Hearing	69
Table 8.7:	Percent Distribution For The Outcomes Of Each Of The Disciplinary Hearings Held	69 ,
Table A.1:	The Listing of Unweighted Weighted Cases And Average Weights By Jurisdiction And Conviction Offense	A-1
Table A.2:	The Listing Of Standard Errors For Weighted Counts And Percents For The Prevalence Of Behavioral Conditions, By Jurisdiction And Conviction Offense	A-2
Table A.3:	The Listing Of The Percent Standard Errors For The Incidence Of Financial Conditions And Felony Arrests By Conviction Offense	A-3
Table A.4:	Percent Distribution Of Weighted Sentences To Probation, By Conviction Offense And Jurisdiction, 1986	A-5

LIST OF CHARTS

Chart 7.1:	Identification Of Record Sources From Which Probationer Felony Arrest Activity On 100 Typical Probationers Was Ascertained	52
Chart 8.1:	The Flow Of 100 Typical Probationers Who Are Eventually Sent To Prison And The Path By Which That Occurs	70

ACKNOWLEDGEMENTS

This report is the second in a series presenting a description of felony probation cases in large urban and suburban jurisdictions in the United States. The information in this report provides a background against which probation administrators, judges, criminal justice practitioners, and the public can better understand the prevalent sanction in felony sentencing: probation.

The authors gratefully acknowledge the many agencies that contributed their expertise and time to this study. These agencies provided key support to the data collection effort. Table P-1 lists the participants from the probation agencies who contributed to this effort. Table P-2 lists criminal history repositories which contributed to this study.

Several probation administrators gave support to this study by reviewing the draft questionnaire. These persons include Donald Atkinson, Executive Assistant Director of the Maryland Division of Probation and Parole; Malcolm McDonald, Director of Program Services for the Texas Adult Probation Commission; John O'Sullivan, Administrative Services Manager in Hennepin County's Bureau of Community Corrections; and Gerard Williams, Assistant Chief Probation Officer in San Diego.

We also thank the staff of the Bureau of Justice Statistics for their assistance and support, especially Carla Gaskins, our project monitor; John Dawson, Statistician; Patrick Langan, Chief of the Adjudication Division; and Acting Director Joseph M. Bessette. We recognize the many contributions of NACJP staff members: Robert C. Cushman, consultant; Ilene Bergsmann, consultant; Rebekah Fennell and Robyn Cohen, Research Assistants; Erika Lee, Administrative Assistant; and Michael Gills, Deidrea Schnabel, and Lisa Taite, data entry staff. We also are grateful for the review work performed by H. Paul Haynes and Dale K. Sechrest.

The National Association of Criminal Justice Planners (NACJP) would like to thank all of the many individuals who generously contributed their time and effort in completing the questionnaires and providing data on which this report is based. We extend our thanks and appreciation to the departments and individuals listed in Table P-1 and P-2 without whom this report could not have been written.

DEDICATION

This report is dedicated to Charles D. (Denny) Weller. Denny retired as the Deputy Manager of Safety for the City and County of Denver on December 31, 1990 after holding a broad range of positions in the criminal justice system from police officer to probation officer to researcher to executive management posts. Denny is a past Chairman of the NACJP and is one of its founding members. His dedication to quantitative analysis created an atmosphere which made this report possible.

TABLE P.1

THE COOPERATION AND ASSISTANCE OF THE PARTICIPATING PROBATION AGENCIES MADE THIS STUDY FEASIBLE
THE PROJECT IS ESPECIALLY APPRECIATIVE OF THE FOLLOWING PERSONS FROM THOSE AGENCIES

COUNTY	STATE	CHIEF PROBATION OFFICER	AGENCY CONTACT PERSON	DATA COLLECTION PERSON
Maricopa County	AZ	Norman L. Helber	Boyd Marsing	Sara Vasquez
Los Angeles County	CA	Barry Nidorf	Robert Polakow	Ken Brohem & his staff
Orange County	CA	Michael Schumacher	Sue Collins	Joni Radio & Ann Beck
San Bernardino County	CA	Claude T. Mangrun	Ray Wingerd	James Morrow
San Diego County	CA	Cecil Steppe	Mary Ramirez	Probation Officers
San Francisco	CA	Arlene Sauser	Arlene Sauser	Davis Hull
Santa Clara County	CA	Pete Silva	Pete Silva	Robert Feldman
Ventura County	CA	William Forden	Cal Remington	Joshua Engel
Denver	CO	Jack Lutes	Dennis Maes	Dennis Maes
Dade County	FL	John H. Nichols	John H. Nichols	Marcine Hinson
Honolulu County	HI	Nathan Kim	Nathan Kim	Aaron Sakamoto
Cook County	IL	John Robinson	Art Lurigio	Marcellino Gerena
Jefferson County	KY	Stephen Seitz	Kim Allen	Edith Underwood
Baltimore City	MD	Harry L. Templeton	Don Atkinson and Bob Gibson	Bob Gibson and Probation Officers
Baltimore County	MD	Harry L. Templeton		
Hennepin County	MN	Michael Cunniff	John O'Sullivan	Mike Zimmerman
St. Louis City	MO	Steve German	William Potter	Julie Sutter
St. Louis County	MO	Steve German	William Potter	and Michael Tsichlis
Erie County	NY	Mark J. Mogavero	Mark J. Mogavero	Robert Hammond
Kings County	NY	Kevin Smyley	Kenneth W. Gallagher	Peter Choy
Monroe County	NY	Robert Dunning	Robert Dunning	S. Hopkins
Nassau County	NY	Robert Bennett	William Botwinik	Jeffrey Cohen
New York County	NY	Kevin Smyley	Kenneth W. Gallagher	Yorong Zhang
Suffolk County	NY	William P. Benjamin	James Golbin	Debbie Bonanno
Franklin County	OH	Thomas B. Studebaker	Thomas B. Studebaker	Michael Fain
Oklahoma County	OK	Justin Jones	Justin Jones	Randy Smith
Philadelphia	PA	Robert L. Williams, Jr.	Michael Green	Charles Ivan Williams
Bexar County	TX	L. Caesar Garcia	Joe Pope	Sam Rodriguez
Dallas County	TX	Lewis Bramblett	Roy Williams	David Brunsman
Harris County	TX	Larance Coleman	Gerald Wheeler	Heather Wheeler
King County	WA	James Crabb	James Crabb	Karen Austin
Milwaukee County	WI	Allan Kasprzak	Allan Kasprzak	Bruce Juppe

The project would also like to thank the cooperation of the New York State Department of Probation and Sentencing Alternatives and its Director, Edmond B. Wutzer, as well as the Texas Adult Probation Commission and its Executive Director, Malcom McDonald.

The assistance of Edward Brekke, Assistant Director of the Los Angeles County Superior Court in tracking down probation information in his court records was also appreciated.

TABLE P-2

THE PROJECT IS ESPECIALLY APPRECIATIVE OF THE FOLLOWING AGENCIES AND STAFF
IN MAKING THE PROBATIONERS' CRIMINAL ARREST HISTORIES AVAILABLE

STATE	AGENCY NAME	AGENCY HEAD	CONTACT PERSON
Arizona	Department of Public Safety	D.C. Britt	Cynthia Pellien
California	Department of Justice	Robert Silva	Charlotte Rhea
Florida	Department of Law Enforcement	Patrick J. Doyle	Charlie Jacobs
Hawaii	Criminal Justice Data Center	Liane Moriyama	Liane Moriyama
Kentucky	Kentucky State Police	Gary Bush	John Vance
Maryland	Department of Public Safety and Correctional Service	Robert Gibson	Robert Gibson
Minnesota	Bureau of Criminal Apprehension	Karen R. McDonald	Karen R. McDonald
New York	Division of Criminal Justice Services	John J. Poklemba	Jack R. McGuiness Pat Gillette Richard Rosen
Ohio	Bureau of Criminal Identifi- cation and Investigation	Marlin Dowler	Paul A. Ferrara Marlin Dowler
Oklahoma	Bureau of Investigation	Ron Young	Ron Young
Pennsylvania	Pennsylvania State Police	Benjamin R. Jones	Benjamin R. Jones F.P. Panuccio
Texas	Department of Public Safety	H.A. Albert	Bob Ripper
Washington	Washington State Patrol	William E. Keller	Herb Howe Richard J. Phillips
Wisconsin	Crime Identification Bureau	Robert L. McGrath	Robert L. McGrath

EXECUTIVE SUMMARY

This study examined over 12,000 cases that were sentenced to probation during 1986, in 32 large metropolitan and suburban jurisdictions, under the auspices of the Bureau of Justice Statistics. The data provided an overview of how probation cases were processed in these jurisdictions and underscored the wide variations in probation practices among these jurisdictions. This study also revealed the extent to which jurisdictions were different in their caseloads and case outcomes.

Many of the differences among jurisdictions are due not only to the type of client that they have to handle, but also because of their justice "environments" that are affected by sentencing laws and correctional philosophies. These jurisdictional differences illustrate the discretion exercised by courts and probation agencies in managing their felony probation cases. So while this study paints a general picture of felony probationers under supervision in the community, it also endeavors to highlight the differences among these jurisdictions in their approach to managing probationers.

PROBATION'S WORKLOAD

Changes in sentencing to probation between 1983 and 1988 tended to be small and without pattern. An exception to this finding is for persons convicted of drug trafficking, whose percent of cases receiving probation declined from 70% to a low of 55% in that time frame. Despite this decline in the percent of cases receiving probation, the huge volume increases in sentencing workload attributable to drug offenses is affecting the overall composition of probation's workload. The greatest increases in felony probation workload were attributable to persons convicted of drug charges (trafficking and possession), so that the overall probation population comprised of these drug offenders has risen from 35% in 1986 to 42% in 1988.

The differential use of probation for 1986 sentences among the 32 jurisdictions participating in this study ranged from 30% to 75%, with an average of 51% of all convicted felons receiving probation. Similarly, the probation rate per 100,000 for the 1986 probation sentences ranged from 39 to 462 per 100,000 among the jurisdictions, with an

average rate of 162 per 100,000 population.

Courts in determinate sentencing states (no parole board) tend to use probation much more frequently than courts in indeterminate sentencing states (parole board). Much of the difference in the use of probation among these jurisdictions tends to occur with property and public order offenses. Overall, persons convicted of a violent offense are much less likely to receive probation than those convicted of a property or public order offense. Consequently, only 12% of all persons receiving probation were convicted of a violent offense (homicide, rape, robbery and aggravated assault).

CHARACTERISTICS OF FELONY PROBATIONERS

The "typical" probationer was an unmarried, minority male, age 28, who was convicted of a non-violent offense and was sentenced to a 42 month probation term. Most probationers had a stable residence, but lacked a high school diploma and a full time job. Three quarters had no prior felony convictions, but a majority had a drug abuse problem.

The relationship between the age of the probationer at sentencing and conviction offense revealed some distinctive patterns. The youngest offenders were more likely to receive probation than the older offenders and many of these youthful offenders were convicted of robbery and burglary charges. Twelve percent of the probationers who were under 20 were convicted of robbery in vivid contrast to only 1% of those probationers who were 50 or older.

Because women tend to commit crimes in offense categories that are likely to receive probation such as larceny, a greater percentage of female offenders received probation than male offenders (68% versus 49%). An examination of the use of probation for different conviction offenses and racial groups showed that white offenders were more likely to receive probation than black offenders. However, the extent of these differences varied widely by conviction offense.

RISK ASSESSMENT

All of the jurisdictions in this study conducted pre-sentence investigations (PSI's)

including states with sentencing guidelines. However, the frequency with which they were performed varied substantially among the jurisdictions. Four out of five pre-sentence investigations recommended probation, with probation officers especially inclined to recommend probation for persons convicted of larceny and "Other" felony offenses. Probation was less frequently recommended for those convicted of violent offenses, especially homicide.

The assignment of probationers to the different levels of supervision correlated with the risk profile of the probationer. Probationers with high risk profiles tended to be placed in the higher supervision levels and those with low risk profiles in the lower supervision levels. For example, probationers with a prior drug use history were more likely to be assigned to higher supervision levels. The ratio of probationers to probation officers reflected supervision needs, with the lowest ratio of probationers to probation officers occurring with the higher supervision levels.

BEHAVIORAL CONDITIONS OF PROBATION

There was substantial jurisdictional variance not only in the imposition of behavioral conditions but also in the types of conditions imposed. The percent of probationers receiving behavioral conditions among the jurisdictions ranged from 17% to 87%. The overall average was 55%. Testing for drug abuse was the most prevalent behavioral condition imposed on probationers by the court. Drug testing and drug treatment were most frequently imposed on probationers convicted of drug trafficking. There was, however, a substantial gap between those with a drug abuse problem and the availability of treatment. For example, only half of those probationers with a frequent drug abuse problem received treatment.

Attaining probationer compliance with the conditions of probation is elusive. This problem requires attention from judicial and probation policy makers. For example, only one quarter of probationers fully satisfied the drug testing requirement.

Overall, half of the probationers failed to make any progress in achieving compliance with their behavioral conditions. Seven out of

eight probationers who absconded or were revoked failed to comply with any conditions of their probation. Not all probationers who served their probation term could be considered "successful" in meeting behavioral conditions. At the time the questionnaire was completed, thirty-one percent of those who served their term had a zero compliance rate with their behavioral conditions. Probationers that exhibited high risk characteristics, such as being unemployed or a drug abuser, did poorer in meeting their conditions than those probationers who did not evidence such characteristics.

FINANCIAL CONDITIONS OF PROBATION

As with behavioral conditions, there was considerable range among the jurisdictions in their use of financial conditions, with the percent of probationers receiving them going from 9% to 100%. Overall, financial conditions were imposed on five out of six probationers (84%). The most frequently imposed financial condition was for court costs. Nearly one half of the probationers being held were liable for this fee. While nearly one third of the probationers had to contribute to their supervision costs, this condition appeared with nearly all of the Texas probationers.

The average assessment incurred by probationers was \$2,172, with probationers paying only 45% of this assessment. Probationers who were employed had higher average assessments and higher average payments than those who were not. However, there was little variation in the percent of the assessment paid among the employment groups. This finding uncovered an implicit "day fine" approach to financial assessments.

The implementation of an explicit "day fine" policy; i.e.; assessments are levied in the context of the probationers daily wage, may help in addressing the compliance issue with regard to financial conditions. Gearing assessments to ability to pay should improve probationer compliance.

FORMAL DISCIPLINARY HEARINGS

Over half of the probationers underwent at least one formal disciplinary hearing (51%). Renewed criminal activity in the form of new arrests and convictions precipitated nearly half of the hearings. More than one quarter of the hearings were

attributed to the probationer's absconding. Only one in five probationers (22%) had formal hearings because of a technical violation of probation.

The frequency of probation disciplinary hearings ranged from 28% to 72% for participating jurisdictions. Agencies exercised a considerable amount of discretion as to how they dealt with recalcitrant probationers. This was reflected in the wide range of disciplinary hearings precipitated by technical violations. There was a negative statistical relationship among the jurisdictions between the percent of probationers undergoing disciplinary hearings and the percent of all felony sentences receiving probation; i.e., the lower the percent of felony sentences receiving probation, the higher the prevalence of disciplinary hearings.

RISK

Probationers with high risk characteristics tended to have a higher incidence of disciplinary hearings than those with low risk characteristics. For example, younger probationers were more likely to undergo a probation disciplinary hearing than older probationers. Furthermore, these younger probationers were more likely to have a hearing because of a new arrest or conviction than the older probationers, who were more likely to be brought up on a technical violation or for absconding.

Other characteristics associated with disciplinary hearings were marital status, race, education and conviction offense. Probationers who were single, of a minority group and without a high school diploma had higher incidences of disciplinary hearings than other probationers. Furthermore, arrest and conviction activity tended to be the precipitating factors for these probationers with a higher incidence of disciplinary hearings. Interestingly, probationers who had been convicted of a homicide or a rape were the least likely to be brought up on probation disciplinary charges.

Two thirds of the probationers who underwent a disciplinary hearing did so within the first eighteen months of their supervision. A significant component of the time to the hearing was the time lag in getting the probationer before a judge. Nearly half of these hearings (45%) took place three or more

months from the discovery of the violation.

ARRESTS WHILE UNDER SUPERVISION

Obtaining accurate arrest information on probationers from probation files was a problem for most of the jurisdictions studied, with probation records having, on average, less than half of the felony arrests made on probationers. Because of this shortcoming in probation files, information on arrest activity was principally drawn from criminal history repositories. Overall, forty-four percent of the probationers were arrested for a felony while under supervision. The vast majority of the offenses for which they were arrested involved property and public order offenses.

Probationers with high risk characteristics tended to have higher arrest rates than those who did not. For example, younger probationers had much higher arrest rates than older probationers. However, probationers who had been convicted of homicide and rape had lower arrest rates than other probationers.

Information on arrest dispositions was spotty. Where it was available, however, it showed that the vast majority of those arrested were subsequently incarcerated, with slightly more probationers going to jail than to prison.

PROBATION SUPERVISION STATUS

Nearly one third (37%) of cases examined in this study were still under active supervision. Of those who left probation, the majority had served their term (33%). More than one in five probationers (22%) were revoked and an additional 10% had absconded. Those probationers who failed probation had the shortest exposure time, with absconders averaging 17 months of supervision and revokes 18 months. Of those sentenced to probation for rape or murder, more than half were still under active supervision compared to the overall average of 31%. Similarly, the wide variation between jurisdictions in percent still on probation was mostly attributable to differences in average probation terms.

With the exception of robbery, persons convicted of a violent offense had the lowest revocation rates among the probationers. Probationers who were convicted of robbery, on the other hand, had the second highest revocation rate (26%).

As with arrests and disciplinary hearings, those probationers with high risk characteristics tended to have high revocation rates. For example, the revocation rate increases from 20% for those with no prior felony convictions to 35% with two or more prior felony convictions.

Most revocations were precipitated by renewed criminal activity while under supervision, with only one in five revocations being due to technical violations of probation (absconding was treated as a technical violation). Jail was a frequently used sanction for dealing with problem probationers, with the result that many of these sanctioned probationers remained on probation.

There is the need to develop a wider range of intermediate sanctions to control probationers involved in new criminal activity while on probation. The purpose of such sanctions should be twofold: to keep persons on probation who would otherwise be sent to prison or jail; and to provide more options in the disciplinary process.

Furthermore, efforts should be made to improve risk assessment. Risk assessment instruments are useful in classifying probationers for case management purposes. Additional research is needed, however, to improve the correlations between risk assessments and probation outcomes. The focus of such research should be managerial; i.e., the use of risk assessment for case management, program design and rationalizing probation officer caseloads.

CHAPTER 1

PLACING PROBATION IN CONTEXT

Introduction

Probation is the dominant sanction in sentencing and its clientele constitutes the largest segment of the correctional population in the United States. Information about persons who receive probation and how they behave while under supervision is critical for monitoring the performance of this vital service. Descriptive statistics on an agency's clients and the agency's interactions with them are a useful complement to an agency's goals, objectives, and policy pronouncements. Such statistics reveal how agencies are actually operating, which, in turn, permits an objective examination of how well an agency is functioning.

This study focuses on felony probationers. While felons represent only a portion of probation's total supervision workload, they are, nonetheless, its most significant workload component. Information is presented on such items as how probationers leave supervision,¹ as well as on the frequency of probationer arrest while under supervision. Programmatic aspects of probation, such as the behavioral conditions and financial assessments imposed on probationers by the court, are also examined.

Approach

The methodology employed here is that of a cohort study, which is composed of convicted felons sentenced to probation in 1986.² The cohort is drawn from the felony sentencing data base compiled by the National Association of Criminal Justice Planners (NACJP) for the National Judicial Reporting Program (NJRP) under the auspices of the Bureau of Justice Statistics (BJS).³ This report presents statistical data on probation cases in thirty-two urban and suburban jurisdictions that were randomly selected from the NJRP sentencing data base.

The sampling frame was stratified based on conviction offense and jurisdiction. Over 12,000 cases were sampled from a universe that is representative of 81,900 probationers. A detailed description of the

study's methodology appears in Appendix A.

This study uses three primary sources of information on these probationers: sentencing records; probation files; and criminal history files. The sentencing records not only provided the basis for drawing the sample, but they also provided perspective on the cases selected. Probation files provided the bulk of the information on the probationers, including the conditions of behavior, compliance with those conditions and the prevalence of formal disciplinary hearings as well as their outcomes. The criminal history files were the principal source of information regarding probationer arrest activity while under supervision.

Nature of Probation's Workload

The sentencing data base provides perspective on the nature of the workload referred to probation agencies. These data provide information on the rate at which probation is used by conviction offense and by jurisdiction. In addition, because sentencing data exists for several years, there is the ability to monitor changes in the use of probation.

Table 1.1 shows the use of probation from 1983 to 1988 for various felony offense categories.⁴ Although there are changes in the use of probation among most of the conviction offense categories, those changes tend to be small and without pattern. For example, the rate at which probation has been imposed for larceny from 1983 to 1988 ranges from 55% to 57%.

The only offense that evidences a major and patterned change in the judicial reliance on probation is that of drug trafficking. Judges have become much less inclined to sentence convicted drug traffickers to probation. From 1983 to 1988, the probation rate for convicted drug traffickers has consistently declined from a high of 70% to a low of 55%.⁵

Tougher Clientele?

The information in Table 1.1 calls into

TABLE 1.1

Percent of sentences to probation from 1983 to 1988, by conviction offense

	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	Total
1983	14%	28%	29%	50%	45%	55%	70%	NA	NA
1985	14%	33%	26%	50%	44%	57%	66%	NA	NA
1986	8%	32%	26%	47%	44%	54%	62%	62%	52%
1988	7%	33%	28%	54%	40%	55%	55%	62%	52%

NOTE: The definition for homicide changed between 1985 and 1986 so as to exclude involuntary and negligent homicide. The drop in the use of probation between 1985 and 1986 is due to this change in definition.

question a widely held belief: that probation is handling a tougher clientele because of prison crowding. This belief appears to stem from the large increases that probation has experienced during the 1980's. This large increase is not so much attributable to changes in the law or judicial sentencing practices, but rather to the increase in the base population of persons coming into felony court.

More persons are being sent to probation because there are more persons being convicted of felonies. For example, the number of felony sentences in the thirty-two counties in this study increased 23% between 1986 and 1988.⁶ The sentencing data base also permits an examination of where this increase is occurring. Much of this increase is due to an influx of drug offenses. Persons sentenced for drug trafficking increased by 54% between 1986 and 1988, and by 91% for those convicted of felony drug possession.

The Impact of Drug Cases

These large increases in sentences involving drug cases ripple into probation and impact it. Persons convicted of drug charges are becoming a larger segment of the probation workload. In 1986, these persons constituted 35% of all those sent to probation, but, in just two years, persons convicted of drug charges have grown to 42% of all probation sentences. To the extent that persons convicted of drug charges bring additional burdens to probation agencies (most notably the need for drug treatment), then indeed they pose a greater challenge to probation agencies.

Although probation is receiving more cases, those cases are basically consistent with the traditional probation population profile. The sentencing data illustrate that persons convicted of a violent offense are much less likely to receive probation than those convicted of a property or public order offense. For

example, less than 30% of those persons convicted of robbery receive probation while more than half of those convicted of larceny receive probation.

The lower percents for sentences to probation among the violent offense categories, along with the smaller number of persons associated with those offenses, generate a felony probation caseload that is composed of a small minority of violent offenders. Of all the persons sentenced to probation, only 12% were convicted of a violent offense (homicide, rape, robbery and aggravated assault).⁷

Differential Use of Probation

The differential use of probation among the 32 jurisdictions participating in this study is quite remarkable (Table 1.2). The percent of all sentences involving probation ranges from a low of 30% in New York County (Manhattan) to a high of 75% in Hennepin County (Minneapolis, MN). A part of the explanation for this variability lies with the distribution of sentences across the various offense categories within these jurisdictions. Sentences involving robbery (a low probation offense) constituted 25% of the total sentence workload in New York County for 1986 in contrast to only 8% of all the probation cases in Hennepin County.

The Sentencing Context

Much of this variation in the use of probation, however, is attributable to the sentencing laws under which these jurisdictions function and their justice "environment." For example, courts in determinate sentencing states (no parole board) tend to use probation much more frequently than courts in indeterminate sentencing states (parole board). California is a determinate sentencing state and its counties have sentences to probation in the 60% range. New York, on the other hand,

is an indeterminate sentencing state and its counties have sentences to probation in the 40% range. There are, nonetheless, exceptions to the general pattern within each state, as illustrated by the 39% probation rate in San Bernardino (CA) and the 65% rate in Suffolk County (NY). These exceptions probably reflect those counties distinctive sentencing and correctional philosophies. These differences in the use of probation are more apparent with persons convicted of property and public order offenses rather than with persons convicted of a violent offense. For example, the range in the percent of robbery cases receiving probation goes from a low of 12% in Dade County (FL) to a high of 48% in Hennepin County (MN). With larceny, on the other hand, the percent of cases receiving probation ranges from 26% in San Bernardino County (CA) to 88% in King County (WA).

Variable Probation Rates

Table 1.2 presents data on a companion statistic that expresses the number of persons sentenced to probation in 1986 per 100,000 persons in the jurisdiction. This probation rate per 100,000 renders a picture on the prevalence of probationers in the community. This measure takes into account the level of offending behavior in the community, as well as criminal justice practice. For example, in the St. Louis area, the county has a higher percent of sentences to probation than does the city (58% to 44%) and yet the city has a probation rate that is more than twice as high as the county (223 versus 104). This anomaly is due to the fact that the county has more than twice the population and slightly fewer felony sentences than the city. The percent of sentences to probation and the probation rate per 100,000 population measure different aspects of probation. When used together, they provide a broader context for understanding the task confronting a particular probation agency.

The average probation rate for the 1986 sentences among the 32 participating jurisdictions is 161 per 100,000 population. There is considerable range in this rate among these jurisdictions. The rate goes from a low of 39 in Erie County (NY) to a high of 462 in Oklahoma County. As illustrated with the St. Louis example, the relationship between the rate per 100,000 and the percent of felony sentences receiving probation is not overwhelming.

The Pearson's r for the relationship between the percent of sentences to probation and the probation rate per 100,000 is 0.38.⁸ This statistic indicates that there is a reasonably good relationship between these two variables; i.e., if a jurisdiction sentences a high percentage of cases to probation, it is likely to be high on the probation rate per 100,000 as well. The relationship is not overwhelming, however, as there are major deviations from it. For example, New York County is above the average for the probation rate per 100,000 population (176), but it has the lowest percent for persons sentenced to probation among the 32 jurisdictions (30%).

Variations in Risk

A third statistic that is presented in Table 1.2 is a risk score.⁹ This risk score is made up of several variables that correlate with probationer behavior while under supervision: the probationer's age; employment status; drug abuse history; prior felony convictions; and the number of address changes in the year prior to sentencing. This measure provides a snapshot of the average probationer under supervision in the community. As with the judicial use of probation and the probation rate per 100,000, there is considerable variation among the jurisdictions with regard to the risk that the probation population presents to the community. The average risk score is 4.5, but it ranges from a low of 2.6 in Franklin County (OH) to a high of 7.3 in King County (WA).

These differences are heavily influenced by state laws. Prior felony convictions are a key component of the risk score. In New York State, there is a "predicate felon" law that precludes probation for any person with a single prior felony conviction. In Minnesota, on the other hand, presumptive sentencing guidelines direct judges to grant probation to persons convicted of larceny, even if that person has several prior convictions.

There is a statistical relationship between the percent of cases receiving probation and the average risk score among the jurisdictions (Pearson's $r = 0.61$). This is anticipated as jurisdictions with high percents of sentences to probation are likely to be placing higher risk persons on probation. So the high average risk score for Hennepin County (5.0) and the low average risk score for New York County (3.5) is expected.

Jurisdictional variation is a major characteristic of the criminal justice system in the United States and Table 1.2 underscores that fact. This report includes several jurisdiction specific tables, but many of its tables are aggregated across jurisdictions. The aggregate findings are useful for understanding the overall picture of probation, but there will

be variations on the theme within individual jurisdictions.

The information that is presented in this report reflects the probation experience in large urban and suburban jurisdictions. The average population for the jurisdictions in this study is 1.6 million persons. The largest

TABLE 1.2

Profile of the population size, the percent of 1986 felony sentences to probation and the number of persons sentenced to probation in 1986 per 100,000 population for the thirty-two jurisdictions participating in this study

COUNTY	STATE	1986 POPULATION	PERCENT SENTENCED TO PROBATION in 1986	NUMBER OF PERSONS SENTENCED TO PROBATION IN 1986 PER 100,000 POPULATION	AVERAGE RISK SCORE
TOTAL		50,715,000	51%	161 Per 100,000	4.5
Maricopa County	AZ	1,900,200	71%	279	4.0
Los Angeles County	CA	8,295,900	60%	225	4.7
Orange County	CA	2,166,800	65%	102	5.3
San Bernardino County	CA	1,139,100	39%	68	3.9
San Diego County	CA	2,201,300	67%	207	4.6
San Francisco	CA	749,000	55%	225	5.0
Santa Clara County	CA	1,401,600	66%	287	6.6
Ventura County	CA	611,000	62%	77	NA
Denver	CO	505,000	48%	118	5.4
Dade County	FL	1,769,500	34%	141	NA
Honolulu County	HI	816,700	59%	86	3.8
Cook County	IL	5,297,900	43%	118	4.0
Jefferson County	KY	680,700	39%	76	3.5
Baltimore City	MD	752,800	39%	141	3.5
Baltimore County	MD	670,300	64%	119	4.3
Hennepin County	MN	987,900	75%	128	5.0
St. Louis City	MO	426,300	44%	223	4.0
St. Louis County	MO	993,200	58%	104	3.5
Erie County	NY	964,700	40%	39	3.9
Kings County	NY	2,293,200	42%	117	3.8
Monroe County	NY	702,600	44%	48	4.4
Nassau County	NY	1,323,000	41%	52	3.2
New York County	NY	1,478,000	30%	176	3.5
Suffolk County	NY	1,312,000	65%	97	4.2
Franklin County	OH	907,000	41%	95	2.6
Oklahoma County	OK	630,300	66%	462	7.2
Philadelphia	PA	1,642,900	44%	125	4.3
Bexar County	TX	1,170,000	56%	174	3.3
Dallas County	TX	1,833,100	44%	191	NA
Harris County	TX	2,798,300	33%	151	3.9
King County	WA	1,362,300	72%	173	7.3
Milwaukee County	WI	932,400	61%	173	5.4

NOTE: The average population of the jurisdictions covered in this report is 1,585,000 population.

jurisdiction in this study is the largest county in the United States, Los Angeles County; and the smallest jurisdiction in the study is St. Louis City. With the exception of St. Louis City and Denver, all of the jurisdictions are among the top 75 counties in the United States.¹⁰ The participating 32 counties constitute 20% of the total 1986 U.S. population. Although these data may not reflect the average national experience, they do typify what happens in those large jurisdictions that bear the brunt of the probation workload.

Topics to be Examined

The phenomenon of jurisdictional variation surfaces with nearly all of the key aspects of probation, from the prevalence of probation conditions to probationer arrest activity. Consequently, this report will document the extent of that variation and, where possible, will explain those variations in the context of the laws, policies and resources operational in the jurisdictions.

Even though jurisdictional differences exist, they do not invalidate the examination of general patterns of probation. Considerable insight can be obtained on the composition of persons on probation, the prevalence of the different conditions of probation and probationer compliance with those conditions, even when the data are aggregated across jurisdictions.

Probation agencies can have considerable impact on prison populations via the probation revocation process. The prevalence of formal disciplinary hearings, the factors precipitating those hearings, and their outcomes are examined in this report. Probation agency behavior in this regard is heavily affected by the probationer's arrest activity. Probationer arrests while under supervision are examined not only with regard to the prevalence of such activity, but also with regard to the type of activity for which they are arrested. This report endeavors to shed light not only on the risk that these probationers represent to the community, but the nature of that risk as well.

Success and failure are black and white terms in an arena characterized by a lot of grey. The information presented throughout this report is intended to help the reader understand who receives probation, what is expected of them and how probation agencies

interact with them. This understanding can substantially contribute to the clarification of the role of probation and its goals and objectives.

Footnotes

1. How probationers left supervision includes completing the sentence or revocation of probation.
2. This cohort probably resembles the entire probation population very closely. However, because probation terms tend to be longer for persons convicted of violent offenses, the prevalence of such probationers would be slightly higher in the entire probation population than in this cohort. While such biases exist, the overall impact is minor. Consequently, the general profile painted by this cohort undoubtedly reflects the general experience of the entire probation population.
3. For a description of the sentencing data base and how it is constructed consult, *The Scales of Justice: Sentencing Outcomes in 39 Felony Courts, 1986*, By Mark A. Cunniff (NACJP, Washington, D.C., 1988).
4. Although the sentencing data shown in Table 1.1 are drawn from data sets of varying sizes, the data were nonetheless obtained through a common methodology.
5. The change in the use of probation for homicide between 1985 and 1986 is due to a change in the definition of homicide in the NJRP program. Starting in 1986, involuntary and vehicular homicides were classified as "other" offenses rather than homicides.
6. See "Felony Sentences in State Courts, 1988," by Patrick A. Langan and John Dawson, Bureau of Justice Statistics, Washington, D.C., 1990.
7. This point will be further examined in the next chapter.
8. Pearson's r is a measure of correlation between two interval variables. This statistic can range in value from -1.00 (perfect inverse correlation) to 1.00 (perfect direct correlation). Zero indicates no relationship at all.
9. The elements that go into computing this risk score are discussed at a later section of this report.
10. The designation of "county" applies to such city/county jurisdictions as Denver and San Francisco. Only two of the five boroughs (counties) of New York City are included in this study: Kings (Brooklyn); and New York (Manhattan). Denver was included in this study because of its previous participation in the statistical series. St. Louis City was included because it is served by the same regional district that supervises probationers in St. Louis County.

CHAPTER 2

CHARACTERISTICS OF FELONY PROBATIONERS

Introduction

The "typical" felony probationer was an unmarried, minority¹ male, age 28, who was convicted of a non-violent offense and was sentenced to a 42 month term. He was a person with a stable residence, but who lacked a high school diploma and a full time job. While he had no prior felony convictions, he did have a drug abuse problem.

To elaborate on this profile, the analysis utilizes two sets of tables to present the same variables, but with their percents computed differently. One set of tables computes percents across the conviction offense, while the other set computes the percent share within each offense category. These different computations provide a broader perspective on the composition of felony probationers, so as to provide an understanding of the challenge that these probationers present to probation agencies.

Distributions Across Conviction Offense

As shown in Table 2.1, only 12% of the probationers were convicted of a violent offense (homicide, rape, robbery and aggravated assault). The vast majority of offenses involve property or public order offenses. Indeed, "Other" felony comprises the largest share of the probationers (39%). This "Other" category is made up of such offenses as receiving stolen property, forgery, fraud and drug possession.

More than one-third of these "Other" offenses involve drug possession cases, which equates to 15% of the total caseload. When this is added to drug trafficking (20%), persons convicted of drug offenses are found to make up a substantial portion (35%) of the total felony probation workload. This grouping is even higher than the combined total of persons convicted of the property offenses of burglary (13%) and larceny (16%).²

Table 2.1
Percent distribution of probationers across offense categories, by various demographic characteristics of the offender, 1986

	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	Total
TOTAL	b	2%	5%	5%	13%	16%	20%	39%	100%
Male	b	2%	6%	6%	15%	15%	20%	38%	100%
Female	1%	b	3%	4%	5%	23%	19%	45%	100%
White	b	2%	3%	6%	13%	15%	20%	41%	100%
Black	b	1%	8%	5%	13%	16%	20%	36%	100%
Other	b	3%	4%	7%	12%	30%	15%	29%	100%
Hispanic	b	2%	4%	6%	11%	13%	29%	35%	100%
Under 20	b	1%	13%	4%	28%	16%	14%	23%	100%
20-24	b	1%	6%	5%	17%	15%	21%	35%	100%
25-29	b	1%	5%	5%	11%	15%	23%	39%	100%
30-39	b	2%	2%	6%	7%	16%	19%	46%	100%
40-49	b	4%	1%	7%	5%	17%	16%	49%	100%
50 or older	1%	5%	1%	8%	2%	15%	14%	54%	100%
Average Age	33	34	24	30	24	28	28	30	28

Demographic data was available at the following rates for each of the following categories:
 Sex (99%); Race (97%); Ethnicity (82%); and Age (96%).

b=less than 0.5%.

There are differences in the distribution of the conviction offense that brought males and females to probation. Males tend to be involved with the high risk offenses of robbery and burglary. Females are more heavily concentrated in the larceny offense category. For example, 15% of the male probationers were convicted of burglary in contrast to only 5% of the female probationers. Larceny, on the other hand, was the conviction offense for 23% of the female probationers as opposed to only 15% of the male probationers.

The variation in the distribution of probationers across conviction offense by race is small. The most notable difference occurs under robbery. While 8% of the black probationers were convicted of robbery, only 3% of the white probationers were convicted of this offense.

The relationship between the age of probationers at sentencing and their conviction offense reveals some very interesting patterns. Robbery and burglary are youth-oriented offenses. Twelve percent of the probationers who were under 20 were convicted of robbery in vivid contrast to only 1% of those probationers who were 50 or older. There is a similar sharp and consistent fall off between the youngest and oldest age groups for burglary. Burglary was the conviction offense for 29% of those probationers under 20, in contrast to only 2% of those 50 or older.

Older probationers are much more likely to have been convicted of an "Other" offense. This category more than doubles between the youngest and oldest age groups, going from less than a quarter (23%) of the conviction offenses for persons under 20 to

being more than a half (54%) of the conviction offenses for those probationers who are 50 or older. Offenses such as forgery and fraud do not require the physical conditioning that is associated with burglary and robbery.

Violence is not unknown to these older probationers, however. The highest percents for probationers convicted of homicide, rape and aggravated assault are found among the oldest probationers. For example, only 1% of the probationers under the age of 20 were convicted of rape while 5% of those probationers who were 50 or older were convicted of that offense.

The relationship between age and drug trafficking also evidences an interesting pattern. The percent of probationers convicted of drug trafficking rises from 14% for those under 20 to a high of 23% for those who are 25 to 29 years of age and then falls to 14% for those 50 or older.

The average age summarizes these findings nicely. The youngest average age at sentencing is 24 for probationers convicted of robbery or burglary. The oldest average age, on the other hand, is found for probationers who were convicted of rape (34 years old).

Distribution Within Conviction Offense

The data presented in Table 2.2 are of distributions of probationers within a conviction offense category as opposed to across the offense categories as shown in Table 2.1. The purpose of Table 2.2 is to render a picture of the total workload attributable to the various demographic populations. To simplify the presentation of this data, only the percents

Table 2.2

Percent of probationers who exhibit selected demographic characteristics by conviction offense, 1986

	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	Total
Male	75%	97%	92%	89%	94%	79%	86%	83%	85%
Black	46%	26%	61%	36%	37%	38%	39%	36%	38%
Hispanic	25%	27%	21%	27%	23%	22%	35%	24%	26%
Under 24	26%	25%	65%	35%	64%	41%	40%	34%	42%

Demographic data was available at the following rates for each of the following categories:
Sex (99%); Race (97%); Ethnicity (82%); and Age (96%).

associated with a selected demographic characteristic, such as male, are presented within each conviction offense category. As can be observed in Table 2.2, the overwhelming majority (85%) of probationers are male, with 42% under 25 years of age. Nearly two-thirds of the probationers are from minority groups, with 38% being black and another 26% being Hispanic.

The variation in the prevalence of probationers with these different characteristics within each offense category displayed in Table 2.2 echoes that which was presented in Table 2.1. The highest concentration of male probationers, for example, occurs within the robbery (92%) and burglary (94%) offenses. The lowest concentration of males occurs with homicide (75%) and larceny (79%).

The lowest concentration of black probationers is found under rape (26%), while the highest concentration manifests itself with robbery (61%). The most notable percent among Hispanic probationers takes place with drug trafficking, where Hispanics are found to constitute 35% of that population.

Probationers tend to fall into three offense groupings based on their age. The conviction offenses of robbery and burglary have the highest concentration of young

probationers (under 25), where nearly two-thirds (64%) of the probationers in these offense categories fall into that age grouping. This youthful presence drops off substantially under the offenses of aggravated assault, larceny, drug trafficking and "Other." These offenses have concentrations of probationers under 25 that only range from 34% to 41%. The lowest concentration of young probationers appears with homicide (26%) and rape (25%).

Demographics and Sentencing to Probation

The composition of the felony probation workload is affected by two factors: the differential rate of offending by each demographic subgroup and the differential rate at which judges sentence these various subgroups to probation. For purposes of this study, the examination of the offending rate is limited here to the volume of cases that each of these constituent groups made up within the various conviction offenses at sentencing. The decision to sentence to probation, on the other hand, is directly related to judicial sentencing practices.³

The basic picture of persons sentenced in felony court is only marginally different from that described for felony probationers. Violent offenses⁴ constitute a minority portion of felony sentences (21% of all sentences).

TABLE 2.3

Percent of sentences to probation, by various demographic characteristics of the offender, 1986

	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	Total
TOTAL	7%	32%	25%	47%	42%	53%	62%	61%	50%
Male	7%	32%	25%	46%	42%	51%	63%	60%	49%
Female	21%	46%	41%	67%	54%	66%	76%	74%	68%
White	11%	39%	29%	58%	46%	62%	69%	68%	59%
Black	7%	20%	23%	42%	37%	50%	66%	62%	48%
Other	12%	32%	35%	65%	68%	60%	67%	74%	62%
Hispanic	12%	33%	25%	38%	41%	44%	47%	53%	43%
Under 21	7%	28%	38%	49%	58%	65%	76%	75%	59%
21-30	8%	27%	24%	49%	38%	54%	68%	62%	51%
31-40	8%	27%	17%	51%	28%	47%	60%	57%	47%
41-50	5%	34%	15%	53%	27%	53%	52%	64%	52%
51 or older	26%	39%	38%	55%	48%	53%	53%	68%	57%

Demographic data was available at the following rates for each of the following categories:
Sex (91%); Race (67%); Ethnicity (12%); Age (72%).

The vast majority of the sentencing workload involves persons who are male (88%) and young, with the average age being 28 years. The picture on the minority composition is incomplete, however, because of the general unavailability of data on ethnicity from the sentencing data sources. Data are available on race, however, and they show that 43% of the sentences involve black offenders.

Probation Sentencing and Demographics

The differences that exist between this sentencing population profile and that of the felony probation profile are the product of judicial sentencing practices. Table 2.3 displays the percent of cases receiving probation within each conviction offense category, by selected demographic characteristics. As can be observed in that table, the most substantial variation in the imposition of probation occurs among the conviction offense categories. Violent offenders are much less likely to receive probation than those convicted of a property offense. For example, persons convicted of robbery have a lower probation rate (26%) than those convicted of larceny (54%). This differential use of probation across the conviction offense categories generates a probation population that has a smaller percent of violent offenders (12%) than that found in the total sentencing population (21%). Furthermore, these persons sentenced to probation for violent offenses are generally convicted of the less serious forms of those offenses. Nearly all of the persons receiving probation for homicide were convicted of manslaughter, not murder. Similarly, many of the robbers receiving probation were convicted of unarmed robbery as opposed to armed robbery.⁵

Differences also occur among the various demographic characteristics of the offenders. Female offenders are more likely to receive probation than are male offenders (68% versus 49%). This is partially due to the heavier concentration of females in conviction offense categories that are more likely to receive probation (larceny, for example).

The imposition of probation varies by race as well. Overall, 59% of the white offenders receive probation compared to 48% of the black offenders. The higher use of probation for whites persists within each conviction offense. However, the extent of the

difference varies widely among the conviction offenses. For example, probation is ordered in two out of five cases for whites who were convicted of rape (39%) compared to only one out of five black offenders (20%). With drug trafficking, on the other hand, there is only a small difference in the probation rates for white and black offenders (69% versus 66%).

The imposition of probation also varies by the age of the offender. Generally, the youngest offenders are more likely to receive probation than the older offenders. This is illustrated with robbery, where 38% of those under 20 receive probation compared to only 15% of those aged 40 to 49. With the oldest age group (50 and older), however, there is a jump in the use of probation. This occurs not only with robbery, but also with homicide and burglary as well.

The ability to examine sentencing outcomes by offender demographic characteristics is limited to age, race and sex. The amount of information on case characteristics is also limited. Consequently, there is not enough information in the sentencing data base to explain why the differences discussed above occur, but the information is helpful for monitoring demographic changes in the composition of the felony sentencing workload. For example, if more females enter the felony sentencing stage of the justice system, they are likely to be there for theft and public order charges.

Probation records have much more information on the probationer than that found in the court record. Consequently, there is information not only on such characteristics as the probationer's employment, education and marital status, but also on prior felony convictions, drug abuse history and stability of residence (as measured by the number of moves one year prior to sentencing).

Selected Characteristics by Age

As illustrated in Table 2.4, most of the persons sentenced to probation are not socially well integrated. Only one quarter (26%) of the probationers are married. Slightly more than half (55%) are employed more than 40% of the time. Less than half have a high school diploma, which no doubt contributes to their lack of employment.

Table 2.4

Percent of probationers with selected social and behavioral characteristics, by age

	AGE OF PROBATIONER						
	Under 20	19 to 24	25 to 29	30 to 39	40 to 49	50 or older	Total
EMPLOYMENT							
Works 40 to 100%	40%	51%	55%	60%	69%	62%	55%
EDUCATION							
High school diploma or higher	20%	38%	50%	58%	59%	41%	45%
MARITAL STATUS							
Married	6%	16%	27%	39%	46%	54%	26%
PRIOR FELONY CONVICTIONS							
None	82%	80%	70%	69%	70%	68%	74%
DRUG ABUSE STATUS							
Nothing apparent	55%	46%	39%	44%	58%	76%	47%
ADDRESS CHANGES							
None	65%	58%	56%	60%	63%	74%	60%

Demographic data was available at the following rates for each of the following categories: Employment (65%); Education (74%); Marital Status (76%); Priors (76%); Drug History (69%); and Address Changes (60%).

Only 47% of these probationers have no apparent drug problem. Many of them, however, have been able to maintain a steady residence, with 60% having no moves one year prior to their sentencing. The major characteristic in their favor is that three quarters (74%) have no prior felony convictions. Probation is their second chance.

These characteristics vary substantially by the age of the probationer. Consequently Table 2.4 shows the percent of probationers evidencing a particular trait within each age category. There are substantial variations in employment status by probationer's age, with the youngest probationers having the greatest need for employment. Only 22% of those probationers who are under 20 years of age enjoy maximum employment in contrast to 53% of those who are 50 or older.

The deficit in educational attainment is especially pronounced among younger probationers. Only one out of every five probationers who are under 20 years of age have a high school diploma. Educational achievement, as measured by having a high school diploma or education beyond high school, improves with age. Probationers who

are between 40 and 49 years of age are three times more likely to have a high school diploma than those who are under 20 (59% versus 20%). While the older probationers tend to be better educated than the younger probationers, they nonetheless continue to exhibit an educational deficiency. In all likelihood, this educational deficiency affects their ability to obtain and retain employment.

While the percent of probationers who are married increases steadily with age, from a low of 6% for those under 20 to a high of 54% for those who are 50 or older, there is no similar pattern with address changes. Probationers in their twenties and thirties tend to move more frequently than do the youngest and oldest groups of probationers. Two thirds (65%) of the youngest probationers (under 20) and three quarters (74%) of the oldest probationers stayed at the same address for the year prior to their sentencing. In contrast, only 56% of those probationers aged 25 to 29 were able to keep a stable residence.

Not surprisingly, younger probationers are less likely to have had prior felony convictions than older probationers. Younger probationers have had limited opportunity to

generate a criminal history vis-a-vis the older probationers.⁶ Eighty-two percent of those probationers who are under 20 have had no prior felony convictions compared to only 68% of those probationers who are 50 or older.

The relationship between drug abuse and age is interesting. Drug abuse is a problem that is more heavily concentrated among the middle age categories of probationers. The lowest percentages for probationers with no apparent drug abuse problem occur with those probationers between the ages of 25 and 39. The absence of a drug abuse declines steadily from 55% for probationers under 20 to a low of 39% for those probationers who are 25 to 29 years of age and then increases to 76% for those who are 50 or older.⁷

Selected Characteristics by Conviction Offense

These variables relating to employment, education, marital status, prior felony convictions, drug abuse status and address changes are now examined in the context of the probationer's conviction offense. Probationers convicted of robbery and burglary endure the lowest employment levels. With robbery, only

two out of five (42%) probationers are employed 40% of the time or more. For probationers convicted of burglary the employment rate is 44%. The employment picture for those probationers convicted of homicide or rape, on the other hand, is substantially better, with more than two thirds of these probationers working 40% of the time or more. The distribution of probationers by age within these offense categories contributes to these findings. As reported earlier, younger probationers are more likely to be convicted of robbery and burglary than are the older probationers.

The least educated probationers are those who were convicted of a robbery or a burglary. Only one third of these probationers have a high school diploma. The "better" educated probationers are those who were convicted of rape or larceny, where half of these probationers have a high school diploma. Forty-five percent of drug traffickers have a high school diploma. These findings are influenced by the heavier concentration of younger probationers in these conviction offense categories.

Table 2.5
Percent of probationers with selected social and behavioral characteristics
by conviction offense, 1986

	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	Total
EMPLOYMENT									
Works 40 to 100%	67%	69%	42%	61%	44%	59%	47%	61%	55%
EDUCATION									
High school diploma or higher	46%	52%	34%	47%	35%	50%	45%	48%	45%
MARITAL STATUS									
Married	31%	41%	15%	31%	15%	28%	26%	30%	26%
PRIOR FELONY CONVICTIONS									
None	88%	85%	81%	78%	73%	72%	76%	72%	74%
DRUG ABUSE STATUS									
Nothing apparent	69%	74%	57%	67%	46%	57%	33%	45%	47%
ADDRESS CHANGES									
None	54%	56%	65%	61%	54%	57%	61%	63%	60%

Demographic data was available at the following rates for each of the following categories:
Employment (65%); Education (74%); Marital Status (76%); Priors (76%); Drug History (69%); and Address Changes (60%).

Surprisingly, probationers who had been convicted rape have the highest percent of married probationers (41%). Those probationers convicted of burglary and robbery reveal the lowest percent rate of married persons (15%). This later finding is again influenced by the presence of younger probationers in these conviction offense categories.

Seven out of eight probationers who were convicted of a homicide or a rape had no prior felony convictions. Only 72% of those probationers convicted of a larceny or an "Other" offense had no prior felony convictions. The absence of prior felony convictions doubtlessly facilitated these probationers convicted of homicide and rape receiving probation.

The percent of probationers with no apparent drug abuse problem varies substantially among the conviction offense categories. Drug abuse is not a prevalent problem for those probationers convicted of homicide, rape or aggravated assault. The absence of a drug abuse problem for these probationers ranges from 67% (aggravated assault) to 74% (rape). The majority of probationers convicted of robbery or larceny (57% each) also have no apparent drug abuse problem. The probationers with a drug problem are those who were convicted of drug trafficking, with only one third of these probationers having no apparent drug problem.

There was little variation in the mobility of probationers across the various conviction categories. Most probationers did not change residence in the year prior to the probationary period. However, four out of ten (40%) of probationers had moved at least once. This mobility underscores the transience of the probationary population. The range of probationers who had not moved varies from a high of 65% for those convicted of robbery to a low of 54% for those convicted of a homicide or a burglary.

Summary

This chapter highlighted the demographic, social and criminal characteristics of probationers. This overview provided context to the magnitude of the task assigned to probation agencies in managing their caseload. The supervision of a large group of minimally employed, educationally deficient,

and drug dependent clients is a major task. This type of clientele requires the attention not only of the probation agency but other social service agencies in the community as well.

While most of these probationers have problems that need to be addressed, they are not hardened criminals, yet. Most are without prior felony convictions. In addition, the vast majority are on probation for property or public order offenses, with only 12% having been convicted of a violent offense. Consequently, to the extent that these probationers represent a threat to the community, the threat is to property and public order rather than to an individual's physical well being.

While most (60%) of these probationers are residentially stable, there are a substantial number who tend to be transient, as evidenced by the number of times that they moved in the year prior to their conviction. These transient probationers move prior to coming on probation and they continue to move while under supervision. This mobility is a challenge to the supervising agencies and requires an efficient system for monitoring movement and tracking files.

Footnotes

1. Minority includes black and Hispanic offenders.
2. The sentencing data from 1988 indicate that there has been a 16% increase in the number of persons sentenced to probation since 1986. This increase has not affected the percent of violent offenders on probation (it remains at 12%), but there is an increase in the percent of probationers convicted of drug related offenses. In 1988, twenty-two percent of the probationers were convicted of drug trafficking and another 20% of drug possession.
3. The data for conducting both of these inquiries are drawn for the 1986 sentencing study undertaken by the NACJP, *The Scales of Justice*.
4. These offenses are: homicide, rape, robbery and aggravated assault.
5. See Cunniff, *The Scales of Justice*, 1986.
6. This inquiry was restricted to adult felony activity. Information on juvenile adjudications tends to be in sealed records and so not readily available for this type of research.
7. Although the data were not collected, it appears that alcohol is the drug that causes these older probationers problems. This inference is based on the prevalence with which this group is ordered into alcohol treatment programs, a topic that will be discussed later in this report.

CHAPTER 3

RISK ASSESSMENT

Introduction

Risk assessment revolves around efforts to predict the likelihood of a person committing a crime while in the community. This chapter examines two areas where probation agencies become involved with risk assessment. One area involves the presentence investigation report (PSI) and the other involves the case classification of probationers. Most jurisdictions permit probation officers to give their recommendation in a PSI on whether a person should be placed on probation. For those that receive probation, there is then the need to determine the level of supervision that probationers should receive. The PSI provides much of the information that is used for determining a probationer's supervision level. There are no formulas making these decisions, but there are tools like the National Institute of Corrections' risk assessment scale that can guide those decisions. Discretion, along with the correctional philosophy of justice officials and the community also play a strong role in formulating a particular jurisdiction's response to the risk posed by probationers. The purpose of this chapter is to describe the types of decisions that are made with respect to these two matters.

Presentence Investigations

Presentence investigations advance two major objectives: to aid judges in their sentencing decisions; and to gather information that can be used in classifying the offender at correctional intake, either for probation or the state prison system. These investigations generally include information on the offender's family, social and criminal background. In most instances, the PSI includes the probation officer's recommendation as to what sentence should be imposed on the offender.

Presentence reports assist in evaluating how the multiple goals of sentencing can be served in individual cases. Such sentencing goals include punishment, deterrence, rehabilitation, and restitution to the victim. Presentence reports aid the court in assessing whether probation is appropriate given the individual and the offense committed. If probation is recommended, the probation

officer may also suggest the types of special conditions that might accompany the probation term, such as undergoing drug treatment if the person has a drug abuse problem. Presentence investigations comprise a large portion of the work time available to probation officers who work on felony matters, consuming, on average, one third of the probation officers' time.¹

Although some writers have theorized that presentence reports would be used less frequently in states with determinate sentencing, this is not borne out with the data from this study. In Minnesota (a determinate sentencing state), for example, state law requires that PSI's be performed on all felony cases.² All of the jurisdictions in this study conducted PSI's, including those jurisdictions from states with sentencing guidelines.³ However, the frequency with which PSI's were performed varied widely among the jurisdictions. Because of state law, PSI's were conducted on nearly every case in California⁴ and New York. In Dade County (FL), on the other hand, PSI's were rarely conducted (6%) in an effort to maximize the number of probation officers available to supervise probationers.⁵

Champion argues that the de-emphasis of the rehabilitative function in sentencing has diminished the importance of PSI's, but has not eliminated them.⁶ This view does not take into account the classification function that PSI's help to perform, as well as the need to obtain information that is required for implementing sentencing guidelines, such as prior convictions. The diverse use of presentence investigations after sentencing is one reason that PSI's are heavily used, including in determinate sentencing states. PSI's figure prominently in a probation agency's case classification and supervision decisions as well as at probation disciplinary hearings and subsequent convictions.

Use of PSI's

There has been considerable discussion among probation officials regarding the nature of the information that should go into a PSI. Some agencies have abbreviated investigations that are limited in scope, while others require

Table 3.1

Percent of probation cases that had a pre-sentence investigation report (PSI) written and whether that report recommended probation, by conviction offense

	Percent with PSI	Of those for whom PSI's Were Written, Was probation recommended:		
		No	Yes	Total
TOTAL	72%	21%	79%	100%
Homicide	68%	40%	60%	100%
Rape	72%	28%	72%	100%
Robbery	77%	29%	71%	100%
Felony Assault	74%	25%	75%	100%
Burglary	68%	26%	74%	100%
Larceny	67%	17%	83%	100%
Drug Traffic	78%	23%	77%	100%
Other Felony	73%	17%	83%	100%

Information on PSI's was available for 59% of the cases.

extensively written narratives. This report does not examine the pertinence of the information in the PSI or the appropriateness of its use. However, this report does document that PSI's are used in seven out every ten probation cases selected for this study (72%). In addition, Table 3.1 presents information on the percent of PSI's where the recommendation was made to grant probation, which occurred in four out of every five cases (79%).

The frequency with which PSI's are conducted does not vary substantially among the conviction offense categories. This percent ranges from a low of 68% for homicide and burglary to a high of 78% for robbery and drug trafficking. However, notable differences do occur with regard to the recommendations made by probation officers.

Probation was most frequently recommended for those probationers who were convicted of nonviolent offenses. Probation officers recommended probation for persons convicted of larceny and "Other" offenses in five out of six cases (83% each). Probation was less frequently recommended for those convicted of violent offenses, especially homicide. For those probationers convicted of homicide, only 60% received a recommendation for probation.

Classification Techniques

Probation agencies use classification

systems to provide a structure for managing agency caseloads. Probation classification systems are designed to assess the level of control that is required for probationers. Classification systems can also assess the extent of services that probationers may need in order to become rehabilitated.⁷

The most frequently adopted instruments for risk and needs assessments are the Wisconsin Assessment of Offender Risk and the Wisconsin Assessment of Clients' Needs. Over 69% of these surveyed agencies use the Wisconsin scales either in whole or in some adapted form to meet their jurisdictions' requirements.⁸ Other agencies, such as those in New York State, have adopted their own risk assessment scales that are very similar to the Wisconsin model.⁹ Only two of the responding agencies did not use a risk assessment scale. One of these agencies (King County, WA) was located in a state with mandatory sentencing guidelines.

Supervision Levels

There are five levels of supervision used in this report: intensive; maximum; medium; minimum; and administrative. The terms associated with these levels can vary in meaning among jurisdictions and the reader is encouraged to refer to the section on supervision levels in *Managing Felons in the Community*¹⁰ for more background on this topic.

Table 3.2

Percent of probation cases that had a pre-sentence investigation report (PSI) written and whether that report recommended probation, by initial supervision level

	Percent with PSI	Of those for whom PSI's were written, was probation recommended:		
		No	Yes	Total
TOTAL	71%	21%	79%	100%
Intensive	86%	22%	78%	100%
Maximum	56%	23%	77%	100%
Medium	67%	15%	85%	100%
Minimum	74%	11%	89%	100%
Administrative	86%	27%	73%	100%

Information on PSI's and supervision level was available for 35% of the cases.

The simplest way to distinguish among levels of supervision is to examine the frequency of contact between the probationer and the probation officer. For intensive probation, there is an average of nine meetings per month.¹¹ The frequency of contact drops substantially for those under maximum supervision, where there is an average of two and a half meetings per month. For persons under medium supervision, there is one monthly meeting, while for those under minimum supervision, there is only one meeting every three months. The vast majority of the face to face contacts between probationers and probation officers take place in an office setting. While field visits are relatively rare, they occur more frequently with probationers in the intensive level of supervision than those in other supervision levels. Persons placed on administrative probation tend to communicate with the probation agency by phone or through the mail.

PSI by Supervision Level

Distinct patterns emerge when comparing the PSI recommendation for probation and the supervision level to which the probationer was initially assigned upon entering probation. Probationers assigned to the highest levels of supervision had the lowest percents for PSI's favoring probation (intensive with 78% and maximum with 77%). Probationers assigned to a minimum level of supervision experienced the highest percent associated with a PSI recommendation for probation (89%). The confounding statistic in Table 3.2 is the relatively low percent (73%) for recommendations to probation for those

who were assigned to administrative probation. One possible explanation may be that a negative recommendation includes not placing the person on supervised probation but rather on unsupervised probation.

Initial Level of Supervision by Conviction Offense

The distribution of probationers across initial supervision level categories are as follows:

10%	Intensive
32%	Maximum
37%	Medium
12%	Minimum
9%	Administrative. ¹²

As shown in Table 3.3, the supervision level to which probationers are assigned varies by conviction offense. Probationers convicted of a violent offense are more likely to be placed in the intensive or maximum supervision level. With homicide, for example, sixty one percent of the probationers are assigned to maximum supervision. Only 5% are given minimum supervision.

The distribution across supervision levels for probationers who were convicted of rape, robbery and aggravated assault are similar to that found for probationers convicted of homicide. For example, ten percent of those convicted of robbery receive intensive supervision and half (49%) are placed in the maximum level of supervision while on probation. Only 6% are placed on administrative supervision.

Table 3.3

Percent distribution of probationers across initial level of supervision,
by conviction offense, 1986

	Intensive	Maximum	Medium	Minimum	Administrative	Total
TOTAL	10%	32%	37%	12%	9%	100%
Homicide	4%	61%	23%	5%	7%	100%
Rape	17%	46%	26%	5%	6%	100%
Robbery	10%	49%	28%	6%	6%	100%
Felony Assault	12%	45%	29%	7%	6%	100%
Burglary	11%	32%	38%	10%	8%	100%
Larceny	9%	34%	35%	14%	8%	100%
Drug Traffic	9%	23%	42%	15%	11%	100%
Other Felony	11%	28%	37%	13%	10%	100%
Average Risk Assessment Score	3.9	5.6	5.5	4.4	2.8	4.7

Information on supervision level was available in 39% of the cases.

Information on risk assessment score and supervision level was available in 37% of the cases.

The average risk assessment was derived from five variables: number of address changes 12 months before coming on probation; employment history for 12 months months prior to probation; drug usage; age; and number of prior felony convictions. Refer to methodology section of the report for scoring scheme.

Probationers convicted of burglary, larceny and "Other" felonies have similar distributions across supervision levels. For example, eleven percent of those probationers convicted of burglary are placed in the intensive supervision level. Thirty-two percent receive maximum supervision on probation and 38% are given medium supervision. One in ten are assigned to a minimum level of supervision.

Probationers convicted of drug trafficking, on the other hand, tend to be placed in the less heavily supervised levels. These probationers have the lowest percent for those under maximum supervision (23%) and the highest for those supervised at the medium level (42%). Probationers convicted of drug trafficking also have the highest percents associated with the minimum (15%) and administrative (11%) supervision levels.

Risk Assessment and Supervision Levels

Table 3.3 also displays an average risk score associated with each supervision level. This score is derived from five variables: age at sentencing;¹³ number of prior felony convictions; drug abuse history; employment history; and the number of address changes one year prior to sentencing. The values assigned to the various responses were drawn from the

Hennepin County risk assessment scheme.¹⁴

With the exception of the score for probationers placed in the intensive level of supervision,¹⁵ the average risk scores decrease as the level of supervision decreases. The highest risk score (5.6) is found with those probationers placed under maximum supervision. The risk score for probationers placed in the administrative level of supervision, on the other hand, is half (2.8) of that found under the maximum level of supervision.

Risk Characteristics and Supervision Level

Table 3.4 provides information on the distribution of probationers within each of the supervision levels by the variables that contribute to the computation of the risk score. This table also provides the value associated with each variable in the computation of that risk score used in this report. As expected, probationers with high risk characteristics tend to concentrate in the higher supervision levels than those with the lower risk characteristics.

Mobility of probationers is a salient variable with regard to the assignment of probationers to supervision levels. This is especially true for the maximum level of

Table 3.4

Percent distribution of probationers across initial supervision level categories by selected risk characteristics of the offender, 1986

	TOTAL	Intensive	Maximum	Medium	Minimum	Administrative	Total
		10%	32%	37%	12%	9%	100%
MOVES							
None		10%	24%	39%	17%	9%	100%
One		8%	30%	43%	12%	7%	100%
Two or more		11%	39%	38%	8%	4%	100%
EMPLOYMENT							
60 TO 100%		8%	22%	40%	21%	9%	100%
40 TO 59%		11%	22%	44%	15%	7%	100%
Under 40%		15%	27%	40%	8%	10%	100%
DRUG USAGE							
Nothing apparent		6%	24%	44%	17%	9%	100%
Occassional abuse		9%	33%	42%	10%	6%	100%
Frequent abuse		21%	34%	30%	8%	8%	100%
PRIOR FELONY CONVICTIONS							
None		9%	29%	39%	15%	8%	100%
One		14%	35%	36%	7%	9%	100%
Two or more		20%	38%	29%	3%	10%	100%
AGE							
Under 20		8%	36%	42%	6%	8%	100%
20 to 24		11%	33%	36%	11%	9%	100%
25 to 29		11%	32%	36%	12%	10%	100%
30 to 39		12%	29%	36%	14%	9%	100%
40 to 49		9%	31%	36%	15%	9%	100%
50 or older		6%	31%	33%	20%	10%	100%

Information on supervision level and risk characteristics was available as follows:
 Moves (45%); Employment(48%); Drug History(52%); Priors(57%); and Age(61%).

supervision. As the number of moves one year prior to the imposition of the probation sentence increases from none to two or more, the percent of probationers under the maximum supervision level increases from 24% to 39%. The frequency of changes in residence of probationers is an indicator of risk because of the prospective difficulty in locating and keeping track of mobile persons.

Probationers with low levels of employment are also likely to be assigned to the higher supervision levels. As the percent of time employed decreases, the percent of probationers under intensive supervision increases, going from 8% for those employed 60% of the time or more to 15% for those employed less than 40% of the time.

Similarly, those probationers with a frequent drug abuse problem are much more heavily concentrated in the higher supervision levels than those with no apparent drug

problem. For example, 21% of those probationers with a frequent abuse problem are placed in the intensive supervision level in contrast to only 6% of those with no apparent drug problem.

The percent of probationers in the intensive and maximum supervision levels increases as the number of prior felonies increases from none to two or more. For example, only 9% of those probationers with no prior convictions fell within the intensive supervision level in contrast to the 20% who had two or more prior convictions. The fall off in the percent of probationers in the minimum level of supervision between those with no prior convictions and those with them is quite sharp. Fifteen percent of those probationers with no prior convictions fell into the minimum supervision level in contrast to only 3% of those with two or more prior convictions.

Table 3.5

Percent distribution of probationers across initial supervision level categories by various characteristics of the offender, 1986

	INITIAL SUPERVISION LEVEL					
	Intensive	Maximum	Medium	Minimum	Administrative	Total
TOTAL	10%	32%	37%	12%	9%	100%
SEX						
Male	11%	33%	36%	11%	9%	100%
Female	7%	27%	41%	15%	10%	100%
RACE						
White	11%	29%	37%	13%	10%	100%
Black	8%	37%	37%	9%	8%	100%
Other	11%	20%	41%	23%	5%	100%
ETHNICITY						
Hispanic	14%	29%	33%	11%	14%	100%
EDUCATION						
No high school diploma	11%	34%	38%	9%	8%	100%
High school diploma	9%	24%	30%	6%	8%	100%
Some college	11%	27%	32%	20%	10%	100%
College degree	8%	18%	35%	28%	10%	100%
MARITAL STATUS						
Married	9%	29%	37%	15%	10%	100%
Divorced	12%	31%	34%	15%	9%	100%
Single	11%	32%	38%	11%	8%	100%

Information on supervision level and risk characteristics was available as follows:
Sex (60%); Race (61%); Ethnicity (51%); Education (56%); and Marital Status (57%).

Probation agencies tend to place older probationers in the less supervised levels and the younger probationers in the more supervised levels. For example, 6% of those probationers who are under 20 years of age are placed in the minimum supervision level, compared to 20% of those probationers who are 50 or older.

Demographics and Supervision Level

The assignment of probationers to the various supervision levels shows little relationship to such probationer characteristics as sex, race, ethnicity, and marital status. As displayed in Table 3.5, there are minimal differences between male and female probationers in their assignment to the different supervision levels. Male probationers have a slightly higher frequency of assignment to intensive supervision than do female probationers (11% for males and 7% for females). Males also receive maximum supervision at a higher rate (33% for males and 27% for females). Female probationers, on the other hand, have slightly higher percents associated with the medium and minimum supervision levels than do male probationers.

A comparison of the distribution of probationers across initial supervision level categories by race reveals minor differences between the various groups. While whites have the higher percent of probationers in intensive supervision (11%) than blacks (8%), but blacks have a higher percentage in maximum supervision (37%) than whites (29%).

Overall there is a tight range in the distribution of probationers across the levels of supervision by their marital status. Probationers who are married have a slightly lower level of supervision than those probationers who are single. For example, eleven percent of the single probationers are placed under minimum supervision compared to 15% of the married probationers.

In general, better educated probationers are more likely to be placed in less supervised levels. For example, the number of probationers placed under maximum supervision decreases from 34% for those probationers without a high school degree to 18% for those who have a college degree. Conversely, probationers with a college degree are much more likely to be placed under

Table 3.6

Percent distribution of probationers across initial supervision level categories by probation officer caseloads, 1986

INITIAL SUPERVISION LEVEL

TOTAL	Intensive	Maximum	Medium	Minimum	Administrative	Total
TOTAL	100%	100%	100%	100%	100%	100%
1 to 50 Probationers	69%	7%	3%	3%	3%	13%
51 to 100	19%	59%	38%	45%	6%	36%
101 to 150	2%	3%	9%	7%	6%	7%
Over 150 Probationers	10%	31%	51%	45%	85%	44%

Information on supervision level and probation officer caseload was available in 23% of the cases.

minimum supervision than those who are without a high school diploma (28% versus 9%).

Probation Officer Assignment

One reason for creating different levels of supervision is to relate agency resources to workload. This permits probation agencies to assign more resources to those probationers who are perceived to be the greatest risk. As shown in Table 3.6, the lowest ratios of probation officers to probationers occur with the higher supervision levels. For example, seven out of ten probationers who are placed in the intensive level of supervision are assigned to probation officers who supervise 50 or fewer probationers. This low ratio of probationers to probation officer enables the probation officer to have more contact with these probationers. On the opposite end of the supervision spectrum, eighty-five percent of those probationers in the administrative supervision level are watched by probation officers who have to supervise over 150 probationers.

Another aspect to the relationship

between the probationer and the probation officer is the frequency at which probationers are reassigned to probation officers (Table 3.7). In nearly half of the cases (46%), there is a stable relationship; i.e., these probationers are supervised by the same probation officer throughout their term.

When reassessments are made they tend to occur only once. One third of the probationers fall under the supervision of two different probation officers in the course of their probation term. A total of one in five probationers (20%) experience three or more changes to their probation officers. Probationers under intensive supervision have the highest percent for coming under the supervision of three or more probation officers (35%) while probationers on administrative supervision have the lowest (16%). The high turnover in probation officers for the probationers under intensive supervision may be due to their being transferred to lower supervision levels in the course of their probation. Such transfers will generally entail reassessments to probation officers because there is a tendency for probation officers to

Table 3.7

Percent distribution of probationers across initial supervision level categories by the number of probation officers that the probationer had while under supervision, 1986

INITIAL SUPERVISION LEVEL

TOTAL	Intensive	Maximum	Medium	Minimum	Administrative	Total
TOTAL	100%	100%	100%	100%	100%	100%
One Officer	34%	43%	44%	43%	45%	46%
Two	31%	37%	36%	35%	40%	35%
Three	18%	15%	16%	15%	12%	14%
Four or more	17%	6%	5%	7%	4%	6%

Information on supervision level and number of probation officers was available in 48% of the cases.

specialize in their workload; i.e., only intensive supervision cases.

Jurisdictional Use of Supervision Levels

Levels of supervision tended to be used differently among the jurisdictions studied. Most jurisdictions sent the highest percentage of their probationers to maximum or medium supervision levels. Intensive supervision was minimally used (0-1%) in fifteen jurisdictions and administrative supervision was not found in ten jurisdictions (0-1%). This development generally reflects resource availability and workload within an agency. Agencies that have been able to keep their resources abreast of increasing workloads are better able to retain intensive supervision programming and manageable officer to probationer ratios. Those agencies that have not had their budgets keep pace with workload, on the other hand, tend to rely more heavily on administrative supervision in order to maintain manageable officer to probationer ratios in the other supervision levels.

Summary

Presentence investigations constitute a major workload component for most probation agencies, even those that operate under determinate sentencing laws. Their impact on the sentencing decision is influential as measured by the high percent (79%) of PSI's recommending probation for the probationers under study. The validity of the probation officer's recommendation that is made in the PSI's as to whether probation should be granted will be examined in the chapters that look at felony arrests while under supervision and probation revocation.

Supervision levels represent a method for managing a diverse population. The findings presented here are consistent with most inquiries in this area: the conviction offense and risk variables such as prior felony convictions play a major role in the assignment of probationers to the various supervision levels. Such demographic characteristics as sex and race are not factors in the assignment of probationers to the various supervision levels. There is, however, substantial variation among jurisdictions in the use of the different supervision levels which is as much a function of resources as it is of correctional philosophy.

A legitimate issue in the assignment of

probationers to the various supervision levels is the determination of the appropriateness of the variables used in ascertaining risk. To the extent variables are objective and appropriate, they can contribute to the design of a valid classification system. The appropriateness of risk variables in this regard will be examined in those chapters dealing with arrest and revocation.

Footnotes

1. Cunniff, Mark and Bergmann, Ilene, (1990) *Managing Felons in the Community: An Administrative Profile of Probation*.
2. Virtually all of the 1986 Hennepin County probation cases (89%) had PSI's performed. Those that did not, had PSI's that were performed under another case.
3. For example, Washington State (King County).
4. Only 35% of the 1986 cases in Orange County had PSI's performed. The reasons for this are not discernible from the data collected in this study, but this state law can be waived at the request of defense counsel, which may be the explanation for this finding.
5. Information on PSI's by jurisdiction is not shown because of incomplete data on this variable from several jurisdictions.
6. Champion, Dean J., (1988) *Felony Probation, Problems and Prospects*, New York, p.44.
7. *Classifications in Probation and Parole: A Model Systems Approach*, Washington, D.C., National Institute of Corrections, page 2.
8. See *Managing Felons in the Community* op cit.
9. Ibid.
10. Ibid.
11. For the purposes of this report, probationers who are placed in residential facilities are considered as being under intensive supervision.
12. There is a considerable amount of missing data on this variable and this development has apparently skewed the data toward the higher levels of supervision. Based on aggregate information provided by these agencies, the breakdown of caseload by supervision level was: 1% Intensive; 13% Maximum; 38% Medium; 15% Minimum; and 32% Administrative. See *Managing Felons in the Community*, op cit.
13. Generally the variable used is age at first conviction. This was not available to us. Because 74% of the probationers are first time offenders, it serves as a good surrogate.
14. The values for these responses are shown in Table 3.4.
15. The low risk score under intensive may be due to our assigning persons who received residential placement here.

CHAPTER 4

BEHAVIORAL CONDITIONS OF PROBATION

Introduction

When granting probation to convicted felons, the court usually imposes a fixed list of prescribed activities to which prospective probationers must agree. Many of these conditions are basic to daily living and pose no greater burden on the probationer than what would otherwise be expected of any citizen. Probationers are advised, for example, to establish a residence of record, to find a job, and to obey local, state and federal laws. In addition, probationers are required to report to their probation officers as specified and to permit their probation officers to visit them at home.

These general conditions provide the basis for a continuing relationship between the probationer and the probation agency. The focus here goes beyond these basic conditions of probation. The next two chapters examine conditions that place greater demands upon probationers, beyond what one would expect of a citizen at large. Some of these conditions are relatively new to probation, such as the ordering of restitution to the victim, while others have been associated with probation supervision for some time, such as alcohol treatment. These "extra" conditions are broken into two general categories--behavioral and financial. This chapter examines the extent to which behavioral conditions are imposed and the degree to which probationers comply with them.

Behavioral Conditions

The probationer questionnaire sought information on the following types of behavioral conditions:

- Community residential placement
- Alcohol treatment
- Drug treatment
- Mental health treatment
- Drug testing
- House arrest
- Community service.

These behavioral conditions represent a range of intrusion into probationers' lifestyles. The performance of community service, for example, may take only a few hours out of the

probationers' week and may be scheduled at their convenience. Community residential programs, on the other hand, require probationers to account for their presence 24 hours a day. Probationers in a community residential program live a closely regulated life. They can leave the residence only with the permission of the program's director. If they do leave, they must indicate where they are going. The probationers are then informed of the time that they are expected to return.

Participation in mental health, drug or alcohol treatment programming can also span a wide spectrum of activity. On one extreme, probationers may only have to attend a weekly or monthly counseling session, to the other extreme of being placed in residential care. The questionnaire did not attempt to detail the type of treatment ordered.

Drug testing is a method of ascertaining probationers' compliance with the court mandate to abstain from drug usage. The questionnaire did not attempt to determine the frequency of such testing or whether the drug testing was random. Information was sought on whether this condition was imposed and the probation agency's assessment of how well probationers complied with it.

House arrest encompasses programs that seek to restrict probationers to their homes when not working or otherwise engaged in approved activities outside of the home. This type of program may be electronically monitored or enforced by random phone calls or house visits by the probation officer.

Day treatment involves programs that require the probationer to report to a daytime location in order to account for the person's whereabouts during the day. This type of program may have other component parts, such as an educational component, but the key component is having the probationer report and remain at a supervised location for part of the day.

The Purposes of Behavioral Conditions

Behavioral conditions serve two correctional purposes: to address problems that contributed to criminal behavior in order to

reduce the likelihood of future criminal activity, while at the same time providing a level of supervision that ensures community safety. These behavioral conditions reflect a tension between the rehabilitative goal and the need to supervise offenders, so as to deter them from further criminal activities. There is constant movement on this continuum between helping and monitoring probationers. During the 1980's the emphasis in probation has been on the monitoring role, as evidenced by the increased use of drug testing, house arrest and electronic surveillance programs.

Jurisdictions and judges differ in their emphasis on punishment or rehabilitation as a goal for probation. On the one hand, house arrest serves the goal of punishment. The high incidence of alcohol and drug abuse among probationers, on the other hand, provides the impetus to order them into treatment programs. These competing goals are also subject to available community resources. The option of imposing house arrest, for example, does not exist in those jurisdictions where such a program is non-existent. Even in those jurisdictions where such a program exists, the

Table 4.1

Percent of felony probationers who receive court imposed conditions,
along with the type of condition, by jurisdiction

TYPE OF BEHAVIORAL CONDITION IMPOSED

	Percent with Behavioral Condition	Community Residential Placement	Alcohol Treatment	Drug Abuse Treatment	Testing for Drug Abuse	Mental Health Counseling	House Arrest	Day Program	Provide Community Service
Total	55%	5%	14%	23%	31%	10%	1%	1%	12%
Baltimore City	62%	2%	18%	24%	18%	17%	3%	1%	14%
Baltimore County	62%	2%	19%	31%	16%	15%	0%	0%	12%
Bexar County	74%	9%	20%	28%	51%	23%	0%	2%	4%
Cook County	53%	4%	5%	28%	4%	13%	5%	0%	6%
Dade County	41%	0%	11%	12%	13%	2%	13%	0%	16%
Dallas County	46%	0%	14%	19%	34%	7%	0%	0%	1%
Denver	47%	19%	22%	23%	18%	9%	2%	0%	2%
Erie County	61%	5%	37%	7%	17%	13%	5%	0%	16%
Franklin County	31%	1%	16%	15%	8%	6%	0%	0%	0%
Harris County	66%	7%	15%	13%	55%	6%	0%	0%	17%
Hennepin County	54%	30%	38%	35%	0%	10%	0%	8%	6%
Honolulu County	87%	9%	18%	14%	47%	19%	0%	0%	58%
Jefferson County	35%	3%	10%	22%	1%	10%	0%	0%	1%
King County	48%	1%	5%	4%	7%	7%	0%	1%	39%
Kings County	16%	2%	4%	7%	0%	2%	0%	0%	4%
Los Angeles County	52%	2%	3%	30%	34%	6%	0%	0%	8%
Maricopa County	76%	17%	30%	42%	52%	13%	4%	2%	25%
Milwaukee County	35%	2%	16%	15%	4%	6%	1%	0%	9%
Monroe County	81%	4%	62%	24%	34%	18%	2%	9%	3%
Nassau County	56%	17%	34%	16%	13%	13%	0%	0%	1%
New York County	17%	3%	4%	11%	0%	1%	0%	0%	2%
Oklahoma County	41%	4%	17%	10%	8%	6%	2%	1%	28%
Orange County	79%	3%	32%	32%	64%	31%	1%	0%	3%
Philadelphia	34%	0%	12%	20%	6%	7%	0%	0%	5%
San Bernardino County	82%	1%	6%	21%	50%	62%	0%	0%	18%
San Diego County	68%	5%	12%	11%	46%	14%	0%	0%	16%
San Francisco	45%	4%	9%	21%	19%	8%	0%	0%	5%
Santa Clara County	64%	9%	7%	38%	51%	6%	0%	0%	6%
St. Louis City	60%	6%	16%	27%	10%	11%	1%	0%	32%
St. Louis County	49%	2%	19%	21%	9%	12%	0%	4%	15%
Suffolk County	64%	2%	35%	33%	35%	17%	0%	6%	11%
Ventura County	77%	4%	12%	22%	60%	8%	0%	0%	5%

NOTE: Information on whether behavioral conditions were imposed was available in 73% of the cases.

number of slots limits its use.

With respect to the behavioral conditions of probation examined here, all of the jurisdictions offer most, if not all of them. This analysis examines the frequency with which they are actually ordered for probationers.

Probation agencies do not necessarily directly provide the services ordered by the court. Some of these services are delivered by another agency under contract to the probation agency. Many more of these services are brokered; i.e. the probation agency elicits the cooperation of other governmental agencies or community groups to provide the service. For example, seventy percent of the probation agencies broker the delivery of drug treatment services.¹

Prevalence of Behavioral Conditions

As illustrated in Table 4.1, fifty-five percent of the probationers receive behavioral conditions. Indeed, half of those receiving behavioral conditions are ordered to perform multiple conditions, with 30% receiving two conditions and another 20% receiving three or more. For example, many of the probationers who are ordered to undergo drug treatment are also required to submit to drug testing.

Testing for drug abuse is the most prevalent of the behavioral conditions imposed on the probationer by the court. Drug abuse testing is ordered in 31% of the cases. Drug abuse treatment is the second most commonly ordered behavioral condition (23%). Alcohol treatment is also a fairly frequently imposed condition (14%). The prevalence of treatment for substance abuse underscores the role that licit and illicit drugs play in the lives of probationers.

Mental health counseling and community service are ordered 10% and 12% of the time respectively. Residential placement is an expensive program which is imposed on only 5% of the probationers. Day programming and house arrest are relatively new programs and their infrequent use (1%) is probably a function of that newness.

Jurisdictional Variation

The reliance on the use of behavioral conditions ranges substantially among

jurisdictions, from a low of 16% in Kings County (Brooklyn, NY) to a high 87% in Honolulu. There is considerable variation in the use of these various conditions among the jurisdictions as well. This differential use of conditions is affected by the needs of the probationers. However, much of this jurisdictional variation in the assignment of probationers to these conditions is attributable to the limited availability of slots within these programs. This is particularly the case with treatment programs.

The rate at which alcohol treatment is imposed ranges from a low of 3% in Los Angeles County to a high of 62% in Monroe County (NY). In addition to probationer need and program availability, this range in the ordering of alcohol treatment is also affected by the type of treatment that is extended. For example, in some agencies the supervising probation officers provide alcohol counseling, while other agencies provide this treatment through a specialized unit in the agency or by another agency altogether.

The range in the use of drug treatment is also broad, going from a low of 4% in King County (Seattle, WA) to a high of 42% in Maricopa County (Phoenix, AZ). Eighteen of the jurisdictions cluster in the 20% to 38% range for probationers receiving drug treatment. With more than half of the probationers having a drug problem and less than one quarter of them receiving treatment, there is a clear gap in the delivery of drug treatment services. This gap varies substantially among these jurisdictions. Drug treatment is mostly provided by agencies other than the probation department, with much of this service being brokered, rather than paid for out of the probation agency's budget.

Like drug treatment, drug testing services may not be directly performed by a probation agency. Only one quarter of the agencies (26%) directly conduct drug testing and for another quarter (27%) the agency worked with a contractor in testing probationers for drug usage. Testing was a brokered service in 23% of the agencies and a contracted service in 17%.² The frequency of drug testing ranges from 60% in Ventura County (CA) to 1% in Jefferson County (KY). Drug testing was not conducted in Hennepin, Kings and New York counties.³

The NACJP probation agency study

found that 87% of the agencies offered psychological counseling and that family counseling was offered in 83% of the agencies.⁴ A few jurisdictions also have specialized mental health treatment programs for offenders, such as Hennepin County's program for sexual offenders. Despite a network of community mental health facilities in metropolitan areas, the use of mental health treatment is limited. The imposition of mental health treatment varies substantially among the participating jurisdictions. San Bernardino County has the highest rate for probationers ordered to mental health treatment (62% of its probationers receive this treatment). In contrast to this high usage, half of the jurisdictions make moderate use of court ordered mental health treatment, imposing it 10% to 23% of the time. The remaining jurisdictions require mental health treatment infrequently (less than 10%) or not at all.

Community service is one of the least restrictive conditions of probation. This condition often requires the probationer to complete a specified number of hours as a volunteer in community service. Court ordered public service is not a high cost item because it requires the minimal expenditure of agency resources. Community service is a relatively new condition which was used by all but one jurisdiction. The reliance on this requirement, however, varies considerably by jurisdiction, ranging from a low of 1% in Dallas, Jefferson (KY) and Nassau (NY) counties to a high of 58% in Honolulu County. More than half of

the jurisdictions order community service for less than 10% of their probationers.

All but three jurisdictions use community residential placement, but it is most heavily used in Hennepin County (30%) and in Denver (19%). Both of these jurisdictions operate in states that have community corrections legislation that provides funding for such activity. With the exception of Maricopa and Nassau counties where it is used with 17% of the probationers, all of the remaining jurisdictions employ this condition on less than 10% of their probationers. Probation agencies usually rely on outside resources to deliver community residential treatment. These programs are generally operated by private organizations under contract to the county or state.⁵

The newness of day programming is demonstrated by the fact that 23 jurisdictions had no probationers ordered to this condition. Monroe County revealed the highest rate (9%) for probationers ordered to this condition followed closely by Hennepin County (8%). Baltimore City, King County and Oklahoma County had only 1% of their probationers with day programming.

House arrest was employed in only eleven of the 32 jurisdictions. Dade County made the heaviest use of this program, where 13% of its probationers are placed under house arrest. Of the remaining jurisdictions, house arrest is sparsely imposed. The next highest

Table 4.2

Percent of felony probationers who receive court imposed conditions, along with the type of condition, by conviction offense

TYPE OF BEHAVIORAL CONDITION IMPOSED

	Percent with Behavioral Condition	Community Residential Placement	Alcohol Treatment	Drug Abuse Treatment	Testing for Drug Abuse	Mental Health Counseling	House Arrest	Day Program	Provide Community Service
Total	55%	5%	14%	23%	31%	10%	1%	1%	12%
Homicide	64%	1%	25%	12%	22%	17%	8%	0%	13%
Rape	76%	2%	16%	9%	15%	62%	1%	1%	7%
Robbery	36%	5%	12%	16%	14%	7%	1%	1%	6%
Aggravated Assault	54%	6%	23%	14%	20%	22%	1%	1%	9%
Burglary	48%	7%	14%	18%	23%	8%	1%	1%	12%
Larceny	46%	5%	9%	15%	23%	7%	2%	0%	14%
Drug Traffick	58%	3%	8%	33%	41%	5%	1%	0%	10%
Other felony	60%	6%	17%	26%	35%	10%	1%	1%	13%

NOTE: Information on whether behavioral conditions were imposed was available in 73% of the cases.

use after Dade County occurs in Cook and Erie counties (5%) and many of the other agencies use it for only 1%-2% of their probationers. Of those probationers that receive house arrest, half (52%) are monitored by random phone calls. Only 14% of those subjected to house arrest are monitored electronically.

These variations in the use of behavioral conditions across jurisdiction can be attributed to probationer needs, jurisdictional policies, the availability of resources and the probation agency's ability to broker services. For example, jurisdictions that rely heavily on community residential placement generally come from states that have subsidies from community corrections legislation. The wide

range in the use of behavioral conditions for probationers is understandable given the diversity of the jurisdictions in the study, their relative fiscal health, and their varying degrees of cooperation with service providers.

Conviction Offense and Behavioral Conditions

There are differences in the use of behavioral conditions based on probationers' conviction offense. Probationers convicted of rape have the highest incidence of behavioral conditions (76%) while those convicted of robbery have the lowest (36%). The majority of persons convicted of the other violent offenses of homicide (64%) and aggravated assault (54%) receive behavioral conditions as

Table 4.3

Percent of felony probationers who receive court imposed conditions along with the type of condition, by risk characteristics

TYPE OF BEHAVIORAL CONDITION IMPOSED

	Percent with Behavioral Condition	Community Residential Placement	Alcohol Treatment	Drug Abuse Treatment	Testing for Drug Abuse	Mental Health Counseling	House Arrest	Day Program	Provide Community Service
TOTAL	55%	5%	14%	23%	31%	10%	1%	1%	12%
AGE									
Under 20 years	44%	4%	8%	18%	25%	7%	1%	1%	11%
20 to 24	52%	5%	11%	23%	30%	8%	1%	0%	12%
25 to 29	59%	5%	14%	26%	35%	9%	1%	1%	12%
30 to 39	55%	6%	17%	25%	33%	12%	1%	1%	12%
40 to 49	54%	5%	19%	17%	24%	15%	2%	1%	13%
50 or older	57%	4%	25%	10%	21%	16%	1%	0%	10%
EMPLOYMENT STATUS									
Works 60% or more	60%	5%	18%	22%	32%	13%	1%	1%	15%
Works 40 to 59%	57%	7%	12%	27%	35%	8%	0%	1%	12%
Works under 40%	53%	6%	12%	23%	30%	10%	0%	1%	10%
DRUG ABUSE									
Nothing Apparent	44%	3%	12%	9%	16%	12%	1%	1%	14%
Occassional Abuse	61%	5%	17%	31%	39%	10%	2%	1%	12%
Frequent Abuse	72%	9%	15%	44%	53%	9%	0%	1%	10%
PRIOR FELONY CONVICTIONS									
None	55%	5%	13%	21%	30%	11%	1%	1%	13%
One	58%	7%	17%	28%	35%	9%	1%	1%	11%
Two or more	53%	6%	16%	27%	33%	8%	1%	1%	8%
NUMBER OF MOVES									
None	54%	5%	13%	23%	29%	10%	1%	1%	13%
One	54%	5%	14%	22%	28%	11%	1%	1%	11%
Two or more	57%	9%	16%	25%	34%	11%	2%	1%	12%

NOTE: Information on whether behavioral conditions were imposed was available in 73% of the cases overall.

The availability of this information in combination with the various risk characteristics are as follows: age (72%); employment (61%); drug history (64%); priors (70%); and moves (55%).

do those convicted of drug trafficking (58%) and "Other" felonies (60%). Less than half of the probationers convicted of burglary (48%) or larceny (46%) receive behavioral conditions.

The examination of the frequency with which various behavioral conditions are imposed by the probationer's conviction offense reveals some notable differences. As shown in Table 4.2, probationers convicted of homicide (25%) or aggravated assault (23%) are more likely to receive alcohol treatment than are the other probationers.

Expectedly, drug treatment and testing are most often imposed on probationers convicted of drug trafficking (33% and 41% respectively). Because probationers convicted of felony drug possession charges constitute a sizeable portion of those probationers convicted of an "Other" felony, the high percentages for drug treatment (26%) and drug testing (35%) are anticipated for that offense as well.

Mental health counseling is ordered for two-thirds of those probationers convicted of rape. No other probationer group comes close to this percentage. This finding provides some context to the sentencing decision to place these rapists on probation. Apparently some mental health problem was found with these persons, so that judges felt treatment, rather than punishment, was the more appropriate correctional response.

House arrest is most frequently used with probationers who were convicted of homicide (8%). With the remaining probationers, its use is limited to only 1% to 2% of the probationers. Both community service and community residential placement show no notable differences in their use by the conviction offense of the probationer.

Risk Variables and Behavioral Conditions

This section examines the relationship between risk characteristics and the types of behavioral conditions imposed on probationers. Surprisingly, there is little variation in the imposition of behavioral conditions based on the risk characteristics of probationers, except for those with a drug problem. The incidence of behavioral conditions grows from 44% of the probationers with no apparent drug problem to 72% for those with a frequent abuse problem. This growth is principally due to the higher usage of drug testing and treatment for

probationers with a drug abuse history.

The prevalence of drug treatment increases more than fourfold from 9% for those without any apparent problem to 44% for those with a frequent abuse problem. With drug testing, the frequency rises from 16% to 53% between those probationers with no apparent problem to those with a frequent abuse problem. These findings are reassuring in that treatment resources are being targeted to the population most in need. However, these data also point out a substantial gap between probationers in need of treatment and those actually receiving it. More resources are required to make drug treatment available to bridge this gap. Unfortunately, this gap between the need for treatment and its availability is probably widening because of the trend of more drug traffickers and possessors entering probation, as observed in the sentencing data.

Among the other conditions, several notable differences in the rates at which they are applied to various risk groups materialize. Behavioral conditions that evidence variation by age are: alcohol treatment; drug abuse treatment; drug testing; and mental health counseling. With regard to alcohol treatment, as the age of the probationer increases, so also does the percent of probationers required to undergo alcohol treatment. There is a steady progression in the use of this treatment from the 8% who are under 20 years of age to the 25% who are 50 or older.

The relationship between age and drug treatment is almost the reverse of that found with alcohol treatment; i.e., older probationers are less likely to be ordered into drug treatment than younger probationers. The use of drug treatment peaks at 26% with probationers who are in their late twenties. Drug treatment then steadily declines to 10% for those probationers who are 50 or older.

The pattern between probationer age and the ordering of drug testing is similar to that found for drug treatment. The percent of probationers ordered to submit to drug testing grows from 25% for those probationers who are under 20 to a high of 35% for those probationers who are aged 25 to 29 and then steadily declines to 21% for those probationers who are 50 or older. This pattern is consistent with the drug abuse history associated with these different age groups.

These findings underscore the extensive drug problems that probationers have. The nature of the drug problem is quite different based on the age of the probationer. Younger probationers are more likely to have an illicit drug problem while the older probationers are more likely to have a licit drug problem (alcohol).

The use of mental health counseling increases slightly with each successively older age group, ranging from 7% for the youngest group to 16% for those aged 50 or older. This increasing use of mental health counseling as probationers get older is partially due to the higher incidence of violent offense convictions attributable to the older probationers, especially for homicide and rape. As noted earlier, probationers convicted of homicide or rape are much more likely to be ordered to mental health treatment than other probationers.

Behavioral conditions of probation vary slightly by employment status. For example,

less than one in five probationers (18%) who have maximum employment are ordered to participate in alcohol treatment. This is not substantially different from the 12% found for probationers at the medium and minimum employment levels.

An examination of behavioral conditions by the number of prior felony convictions reveals little systematic variation. For example, drug abuse treatment ranges from 28% of those with one conviction to 21% of those with no prior offenses. The only behavioral condition that varies consistently with prior convictions is community service and that is an inverse relationship. As the number of prior convictions increases, the use of community service decreases from 13% for those without any priors to 8% for those with two or more priors.

With those probationers who move frequently (two or more times), there is a tendency for them to incur slightly higher percents for the imposition of behavioral

Table 4.4

Percent distribution of probationers who received court imposed behavioral conditions across the extent of their compliance with those conditions, by probationer risk characteristics

		DEGREE OF COMPLIANCE						
		0%	1 to 24%	25 to 49%	50 to 74%	75 to 99%	100%	Total
	TOTAL	49%	0%	3%	17%	2%	28%	100%
AGE	Under 20 years	57%	0%	2%	17%	2%	22%	100%
	20 to 24	58%	0%	3%	13%	2%	23%	100%
	25 to 29	50%	0%	3%	17%	2%	27%	100%
	30 to 39	45%	1%	2%	20%	2%	30%	100%
	40 to 49	33%	2%	4%	23%	3%	34%	100%
	50 or older	27%	0%	1%	24%	2%	46%	100%
EMPLOYMENT STATUS	Works 60% or more	35%	1%	3%	19%	3%	38%	100%
	Works 40 to 59%	56%	0%	2%	17%	2%	23%	100%
	Works under 40%	61%	0%	2%	15%	2%	20%	100%
DRUG ABUSE HISTORY	Nothing Apparent	42%	1%	2%	16%	2%	37%	100%
	Occassional Abuse	50%	0%	2%	16%	3%	29%	100%
	Frequent Abuse	57%	0%	4%	18%	2%	18%	100%
PRIOR FELONY CONVICTIONS	None	47%	0%	2%	18%	2%	30%	100%
	One	52%	1%	4%	18%	2%	23%	100%
	Two or more	61%	1%	3%	15%	1%	19%	100%
NUMBER OF MOVES	None	47%	0%	2%	17%	3%	30%	100%
	One	49%	0%	3%	18%	2%	28%	100%
	Two or more	58%	0%	2%	13%	1%	25%	100%

NOTE: Information on compliance was available in 95% of the cases that had behavioral conditions imposed.

conditions. For example, while one in seven probationers who did not move (14%) were required to participate in alcohol treatment, this condition was ordered for 16% of those probationers who moved two or more times one year prior to their sentencing. Similarly, drug abuse treatment ranged from 23% for those with no moves to 25% for probationers with two or more changes of address.

Compliance with Behavioral Conditions

In order to assess the extent to which probationers make progress in complying with their behavioral conditions, an overall compliance rate was computed. Probationers who had "satisfied" a condition were given a score of "1." Progress in satisfying a condition resulted in a score of "0.5." Those with a "condition unsatisfied" were given a "0." The scores were summed up for each behavioral condition and then divided into the total number of conditions. This compliance rate ranges from 0% to 100%. An example of how this compliance rate would be computed follows. If a probationer received two behavioral conditions and he satisfied one (1 point) and was making progress (0.5 points) in the other, his compliance rate would be 75% (1.5 divided by 2).

The information in Table 4.4 presents the degree of compliance for all of the behavioral conditions that were imposed on each probationer. Half of the probationers failed to make any progress in achieving compliance with their behavioral conditions. Of the rest, however, most either fully complied with their conditions (28%) or made substantial progress in meeting them; i.e., 19% had a compliance rate that ranged from 50% to 99%.

Table 4.4 also contains information on compliance by the risk variables associated with probationers. As a review of the 100% compliance column reveals, there are fairly strong relationships between these risk variables and the ability to comply with behavioral conditions.⁶ For example, as age increases, so does the rate of full compliance with the behavioral conditions. Of those probationers reaching full compliance, the oldest group has twice the rate of full compliance (46%) than the younger group (22%).

Similarly, as the level of employment

increases so does compliance. Probationers at the maximum employment level are nearly twice as likely to fully satisfy their behavioral requirements than those at the minimal employment level. Probationers who have a high level of employment reveal a 38% rate of full compliance with behavioral conditions in contrast to the 20% rate for those probationers at the minimal employment level.

Frequent drug abusers reveal the lowest rate of full compliance with their probationary requirements (18%). This is half the rate found for probationers with no apparent prior drug abuse (37%).

The number of prior felony convictions is a more modest indicator of ability to meet the behavioral conditions of probation. Full compliance is achieved by 3 out of 10 first time offenders (30%) compared to 19% of two-time offenders.

The stability of the probationer's residence prior to sentencing also shows a modest relationship to the ability to fully comply with the conditions of probation. Those with a stable residence tend to have a higher compliance rate than those who move. Thirty percent of those probationers who did not move one year prior to sentencing have full compliance compared to 25% of those who moved more than once.

Compliance and Status of Probation

Many of those probationers who failed to meet their conditions of probation were probationers who absconded or who had their probation revoked.⁷ As displayed in Table 4.5, seven out of eight probationers who absconded or were revoked had zero compliance with their conditions of probation. The performance for those still on probation or who served their term is considerably better. For example, nearly half of those still on probation were making progress in meeting their conditions and another quarter had fully satisfied them. For those who had served their term, 61% fully satisfied their conditions and another 9% made progress in meeting them.

There remains, nonetheless, fairly sizeable segments among those still on probation and those that served their probation term who failed to make any progress in meeting their behavioral conditions. One quarter of those still on probation (26%) have

Table 4.5

Percent distribution of probationers who received court imposed behavioral conditions across the extent of their compliance with those conditions, by whether or not the person is still on probation

	DEGREE OF COMPLIANCE						Total
	0%	1 to 24%	25 to 49%	50 to 74%	75 to 99%	100%	
Total	49%	0%	3%	17%	2%	28%	100%
Still on Probation	26%	1%	5%	37%	5%	26%	100%
Off Probation							
Served term	30%	0%	1%	7%	1%	61%	100%
Absconded	88%	0%	1%	7%	0%	3%	100%
Revoked	87%	0%	3%	6%	0%	4%	100%
Died	63%	0%	0%	25%	2%	9%	100%
Other exit	45%	0%	1%	8%	0%	47%	100%

NOTE: Information on compliance was available in 95% of cases with conditions that had behavioral conditions.

totally failed to comply with their behavioral conditions. Furthermore, 30% of those who served their term also had zero compliance with their conditions. This latter percent indicates that not all probationers who left probation could be considered "successful."

Attaining compliance from probationers is not easy. This inability to extract compliance from probationers is no doubt a source of frustration for probation agencies. This is an area that deserves the attention of judicial and probation policy makers, with a focus on devising realistic conditions as well as devising rewards and punishments for attaining probationer compliance. Offender accountability is a major legal principle that suffers when offenders ignore behavioral conditions.

Type of Conditions by Degree of Compliance

Probationer progress in meeting

behavioral requirements varies substantially by the type of condition imposed as shown in Table 4.6. For example, community service had the highest rate of full compliance, with half of the probationers who received this condition fully satisfying it. In contrast to the "high" compliance rate for community service, only one quarter of probationers fully satisfied the drug testing requirement, which presumably means that the probationer submitted "clean" urines.

Of the remaining conditions (community residential placement, day programming, alcohol, drug abuse and mental health treatment) the percent of probationers who satisfied these conditions ranged from 38% to 46%. For example, mental health counseling had an overall compliance rate of 44%. While day programming and community service have the highest compliance rates of the behavioral conditions, it must be noted that these conditions were imposed on a small number of

Table 4.6

Percent distribution for the satisfaction of court imposed conditions, by type of condition imposed

	Community Residential Placement	Alcohol Treatment	Drug Abuse Treatment	Undergo Testing for Drug Abuse	Mental Health Counseling	Submit to House Arrest	Participate in Day Programming	Provide Community Service
Total	100%	100%	100%	100%	100%	100%	100%	100%
Satisfied Condition	42%	40%	31%	26%	39%	45%	46%	51%
Progress in Satisfying Condition	7%	25%	17%	23%	26%	9%	29%	11%
Unsatisfied	51%	36%	52%	50%	34%	46%	25%	38%
Overall compliance rate	46%	52%	39%	38%	44%	50%	60%	57%

NOTE: Information on compliance was available in 95% of the cases that had behavioral conditions.

Table 4.7

Percent distribution of probationers who received court imposed behavioral conditions across the extent of their compliance with those conditions, by jurisdiction

	DEGREE OF COMPLIANCE						
	0%	1 to 24%	25 to 49%	50 to 74%	75 to 99%	100%	Total
Total	49%	0%	3%	17%	2%	28%	100%
Homicide	30%	1%	5%	24%	2%	39%	100%
Rape	27%	1%	4%	35%	2%	31%	100%
Robbery	55%	0%	1%	18%	2%	24%	100%
Aggravated Assault	38%	0%	2%	19%	2%	38%	100%
Burglary	56%	0%	4%	16%	2%	22%	100%
Larceny	52%	1%	3%	18%	2%	25%	100%
Drug Traffick	56%	0%	2%	15%	2%	24%	100%
Other felony	46%	1%	3%	17%	2%	31%	100%

NOTE: Information on compliance was available in 95% of the cases that had behavioral conditions.

probationers.

Conviction Offense and Compliance

The degree of probationer compliance with behavioral conditions varied by conviction offense as shown in Table 4.7. The persons who were most likely to completely satisfy their conditions of probation were the probationers who were convicted of a violent offense. For example, the highest rates of full compliance were found with those who were convicted of homicide and aggravated assault (39% and 38%). Three out of ten probationers convicted of rape also had full compliance. The lowest rates of full compliance were found with those probationers who were convicted of burglary (22%) and robbery (24%) followed closely by those convicted of larceny (25%) and drug trafficking (24%).

Compliance and the Number of Conditions

As the number of behavioral conditions increases, the ability to comply decreases (Table 4.8). Probationers required to fulfill only one condition of probation have the

highest rate of full compliance (32%). Compliance then falls to 23% for those probationers with four or more conditions.

Interestingly, there is not a strong inverse relationship between the number of conditions and the percent of probationers who fail to make any progress. Half of those probationers with one, two or three behavioral conditions have zero compliance with those conditions. The percent of probationers in non-compliance decreases to 46% for those probationers with four or more conditions.

Split Sentences

Another significant aspect of conditions of probation is the prevalence of the use of jail with it. As presented in Table 4.9, half of the persons receiving probation also receive a jail sentence, with an average term of seven months. The reliance on the use of jail at sentencing varies tremendously, ranging from a low of 0% in each of the three Texas counties to a high of 100% in Orange County (CA). Jail is used extensively in felony sentencing among the California counties and figures prominently

Table 4.8

Percent distribution of probationers who received court imposed behavioral conditions across the extent of their compliance with those conditions, by the number of conditions imposed.

	DEGREE OF COMPLIANCE						
	0%	1 to 24%	25 to 49%	50 to 74%	75 to 99%	100%	Total
Total	49%	0%	3%	17%	2%	28%	100%
One	51%	0%	0%	18%	0%	32%	100%
Two	49%	0%	5%	19%	4%	23%	100%
Three	48%	3%	7%	15%	3%	25%	100%
Four or more	46%	2%	7%	14%	7%	23%	100%

NOTE: Information on compliance was available in 95% of the cases that had behavioral conditions.

Table 4.9

Percent of probationers with jail terms and the average term imposed by jurisdiction, 1986

County	State	Percent of Probation Cases with Jail Terms	Average Jail Term (in months)
Total		50%	7 Months
Maricopa County	AZ	43%	4
Los Angeles County	CA	84%	6
Orange County	CA	100%	5
San Bernardino County	CA	93%	5
San Diego County	CA	92%	6
San Francisco	CA	92%	7
Santa Clara County	CA	94%	6
Ventura County	CA	54%	6
Denver	CO	17%	4
Dade County	FL	25%	5
Honolulu County	HI	43%	5
Cook County	IL	19%	4
Jefferson County	KY	2%	10
Baltimore City	MD	9%	5
Baltimore County	MD	33%	9
Hennepin County	MN	61%	6
St. Louis City	MO	6%	9
St. Louis County	MO	9%	9
Erie County	NY	37%	7
Kings County	NY	45%	12
Monroe County	NY	43%	6
Nassau County	NY	40%	6
New York County	NY	25%	8
Suffolk County	NY	50%	5
Franklin County	OH	3%	5
Oklahoma County	OK	15%	2
Philadelphia	PA	16%	24
Bexar County	TX	0%	4
Dallas County	TX	0%	7
Harris County	TX	0%	8
King County	WA	75%	4
Milwaukee County	WI	32%	5

among the New York counties as well. This wide use of jail brings a punitive aspect to probation that is often overlooked by critics of probation.

Summary

Behavioral conditions are widely used by courts in their sentences to probation. There

are, however, varying degrees of success in having the probationer achieve compliance with those conditions. Probation cases display the following characteristics with respect to behavioral conditions:

- There is considerable variation in types of behavioral conditions imposed.
- Conditions assigned to probationers depend mostly on the jurisdictions in which they reside.
- Behavioral conditions are as closely tied to resources and correctional philosophy as they are to probation needs.
- Variations occur in use of specific conditions based on the conviction offense, especially with drug traffickers and drug possessors who undergo drug treatment and testing much more frequently than other probationers.
- Obtaining probationer compliance is problematic for all types of conditions.
- Probationers with high risk factors have higher non-compliance rates than those with low risk characteristics.
- Seven out of eight probationers who absconded or who were revoked had zero compliance with their conditions.
- Even probationers who completed probation had sizeable non-compliance rates.

Footnotes

1. Cunniff, Mark A. and Bergmann, Ilene R., *Managing Felons in the Community*, 1990, pp 37-38.
2. Ibid. at p. 38.
3. This study is based on persons sentenced to probation in 1986. Since that time, a drug testing program has been started in Kings and New York counties.
4. Op. Cit. Cunniff and Bergmann at p. 37.
5. Ibid. at p. 38.
6. Because of the bimodal distribution of probationers between zero compliance and full compliance, the inverse of the relationships discussed here between a risk variable and full compliance will hold for the risk variable and zero compliance.
7. A detailed explanation of absconding and revocation occurs in Chapter 8.

CHAPTER 5

FINANCIAL CONDITIONS OF PROBATION

Introduction

There is a basic appeal in having convicted offenders literally pay for their crimes. This chapter examines the various financial assessments that are imposed on probationers as well as the extent to which probationers are able to pay these assessments. Among the assessments examined here are: court related fees; probation supervision costs, monetary restitution to the victim, and other assessments.¹

These probationer assessments are collected by different agencies within each jurisdiction. In some jurisdictions, the probation agency collects the money directly; while in others, an office, such as the court clerk, collects the money. Regardless of which agency collects the money, the probation agency remains responsible for monitoring compliance with these financial conditions. In most instances, the probationer's file reveals the extent to which these financial conditions have been imposed and the probationer's progress in paying these assessments.²

Court related fees include fines, court costs and public defender costs. These costs involve expenses incurred by the state in adjudicating the probationer's case, as well as the criminal penalty for having committed the offense. These court related fees are made payable to the government.

Another form of having offenders pay for their crime is to assess them the costs of the correctional services that they receive. During the past decade, there has been a trend for states to charge probationers a fee for their probation supervision. More than half of the jurisdictions in this study charge such fees.³ In most jurisdictions, supervision fees are assessed monthly to reimburse the jurisdiction for costs of supervising probationers, while in other jurisdictions a flat fee is imposed. Supervision fees in this report reflect what probationers owed at the time of the completion of the questionnaire. Consequently, figures shown for this category reflect assessments to date, not total assessments for the complete term of probation. These supervision fees are very important to the budgets of some agencies. In Texas, for

example, probation supervision fees constitute 45% to 50% of the probation agency's budget.⁴

In contrast to court and probation supervision fees, monetary restitution is a payment to the victim, by the offender, to compensate for tangible losses incurred by the victim as a result of the crime. Restitution has been endorsed by courts throughout recorded history, but formal restitution programs for victims have only been recently organized in the United States as the result of renewed concerns toward addressing victim needs.

The "Other" assessment category includes such items as the costs associated with drug testing, administrative overhead in collecting supervision fees or offender payments to the state's victim compensation fund. This latter item is distinct from restitution in that these payments do not go directly to the person victimized by the probationer, but rather to the state as reimbursement for its costs associated with victim assistance programs.

The use of one condition does not preclude the use of additional financial conditions. Indeed, there is a tendency to impose more than one assessment on probationers, with three out of every four probationers with financial assessments being ordered to pay two or more different levies.

Financial Assessments by Conviction Offense

Overall, five out of six probationers (84%) were required to pay financial assessments as a condition of probation (Table 5.1). The most frequently used financial condition was the court related assessment, with nearly one half of the probationers being held liable for this fee (48%). "Other" fees had comparable rates of usage (47%). Probation supervision fees and restitution were imposed less extensively (32% and 29% respectively).

The prevalence of financial conditions varies moderately by conviction offense. Each conviction offense category, except robbery, averages rates above 80%. The percent of probationers with financial assessments ranges from 91% for larceny to 65% for robbery.

Table 5.1

Percent of felony probationers who receive various court imposed financial assessments, by conviction offense.

	TYPE OF FINANCIAL CONDITION				
	Percent of probationers with financial assessments	Court related assessments	Probation supervision fees	Restitution to victim	Other fees
Total	84%	48%	32%	29%	47%
Homicide	81%	44%	38%	30%	46%
Rape	85%	49%	30%	14%	46%
Robbery	65%	33%	20%	26%	36%
Aggravated Assault	81%	40%	32%	26%	43%
Burglary	83%	50%	35%	43%	43%
Larceny	90%	48%	39%	51%	43%
Drug Traffick	82%	46%	21%	9%	58%
Other felony	86%	51%	34%	27%	46%

Data on financial conditions was available at a rate of 77%.

The prevalence of restitution ranges from 9% for those probationers convicted of drug trafficking to 51% for those convicted of larceny. There is a tendency for restitution to be ordered for the purely property offenses of larceny (51%) and burglary (43%). Restitution is less likely to be ordered for probationers convicted of a violent offense. For example only one quarter of those convicted of aggravated assaults (26%) must pay restitution. The very low use of restitution with drug traffickers (9%) is understandable in that it is an offense that does not involve a tangible loss nor does it have a direct victim.

Probation supervision fees range from a low of 21% for those probationers convicted of robbery to a high of 40% for those convicted of larceny. Drug traffickers, interestingly enough, have a low incidence of probation supervision fees (22%).

The other fees range in use from a low of 36% for the probationers convicted of robbery to a high of 58% for those convicted of drug trafficking. Other fees can include drug testing costs and that may be contributing to this high percent of other fees for drug traffickers.

Financial Assessments by Jurisdiction

Jurisdictions varied in their use of financial conditions. For example, some jurisdictions imposed financial requirements on every probationer (Franklin County, Bexar County, Harris County, and Dallas County) and another eleven counties assessed fees on nine out of ten probationers. The lowest reliance on financial conditions occurred in New York (9%) and Kings Counties (13%).

This broad range in the imposition of financial assessments as a condition of probation also surfaced with each of the different types of assessments imposed. For example, although restitution programs existed in all of the jurisdictions, their actual usage ranged from a low of 2% in New York County to a high of 66% in San Diego County.

Court fees provide another example of the wide range in use of a particular financial condition among the jurisdictions. In six counties court fees were seldom used, while in Franklin County, a court fee was imposed on each probationer.

Like court fees, probation supervision fees were not used in 14 out of 32 jurisdictions. However, for those jurisdictions that did use probation supervision fees, they were levied on a sizeable portion of the probationers. In six jurisdictions, over 80% of the probationers had to pay supervision fees. For example, in Dallas County, ninety six

percent of the probationers were assessed supervision fees.

"Other" fees also show a wide range, going from no probationers receiving this assessment in Dade, Franklin and Suffolk counties to a high of 96% in Santa Clara County.

Table 5.2

Percent of felony probationers who receive various court imposed financial assessments, by jurisdiction.

TYPE OF FINANCIAL CONDITION IMPOSED

	Percent of probationers with financial assessments	Court related assessments	Probation supervision fees	Restitution to victim	Other fees
Total	84%	48%	32%	29%	47%
Baltimore City	88%	85%	2%	21%	6%
Baltimore County	73%	65%	3%	26%	7%
Bexar County	100%	100%	92%	35%	70%
Cook County	90%	69%	0%	32%	16%
Dade County	86%	11%	78%	25%	0%
Dallas County	100%	65%	96%	33%	33%
Denver	86%	84%	74%	35%	84%
Erie County	90%	72%	0%	18%	16%
Franklin County	100%	100%	0%	38%	0%
Harris County	99%	93%	94%	33%	19%
Hennepin County	47%	3%	0%	40%	9%
Honolulu County	63%	27%	0%	40%	1%
Jefferson County	77%	28%	50%	33%	2%
King County	97%	85%	22%	56%	94%
Kings County	12%	6%	0%	4%	2%
Los Angeles County	82%	41%	10%	13%	66%
Maricopa County	97%	12%	82%	41%	60%
Milwaukee County	97%	84%	0%	55%	80%
Monroe County	79%	36%	0%	41%	16%
Nassau County	67%	28%	1%	41%	3%
New York County	9%	3%	0%	2%	5%
Oklahoma County	99%	98%	91%	29%	97%
Orange County	96%	8%	22%	19%	90%
Philadelphia	77%	10%	4%	26%	67%
San Bernardino County	86%	43%	2%	40%	41%
San Diego County	90%	69%	0%	66%	3%
San Francisco	97%	5%	82%	15%	82%
Santa Clara County	97%	39%	0%	17%	96%
St. Louis City	71%	69%	0%	43%	71%
St. Louis County	89%	78%	0%	43%	86%
Suffolk County	80%	61%	0%	28%	0%
Ventura County	95%	9%	13%	35%	75%

Data on court imposed financial conditions was available for 77% of the cases.

Average Assessments by Jurisdiction

The focus on financial conditions now shifts to the average dollar amount imposed on those receiving assessments. As displayed in Table 5.3, the average assessment incurred by probationers is \$2,172.⁵ Restitution to the victim had the highest average assessment of \$3,369. The lowest dollar assessment occurred with Other fees (\$219). The court related fees and the supervision fees had very similar dollar assessments (\$605 and \$677 respectively).

The high dollar assessment associated with victim restitution reflects the growing sensitivity of the criminal justice system toward the victim. However, from the review of several questionnaires where information on the victim was available, there appears to be a number of institutional victims (banks, hospitals, government, etc) that are benefitting from restitution. This study is not able to distinguish systematically between these institutional victims and individual victims. Such a distinction would have been helpful in better determining how individuals fare in receiving restitution as opposed to institutional victims.

As with the frequency with which financial conditions are imposed by jurisdiction, there is considerable variation among the jurisdictions in the average dollar assessment imposed as well. There is a tendency for large dollar assessments to occur where a particular financial assessment was sparingly used. These few cases are undoubtedly "special" and the dollar assessments reflect that. For example, in New York County, only 2% of the probationers were ordered to pay restitution, with the average dollar assessment being \$24,941. Presumably, these probationers were convicted of embezzlement, stock fraud or some other major financial transgression in order to merit such a high average assessment.

The average dollar assessment range from a low of \$841 in Denver to a high of \$6,509 in New York County. That high average assessment in New York County is very much a function of restitution, as discussed above.

The range in the average dollar assessment associated with court related fees

was also considerable, going from a low of \$16 in Denver to a high of \$4,729 in Dade County. Only 11% of the probationers in Dade County had a court fee imposed on them. The fairly large dollar assessments for court related fees found with Erie, Honolulu, Nassau, and Oklahoma counties were imposed on a sizeable portion of the probationers (more than one quarter).

Among those jurisdictions that impose supervision fees, the average dollar assessment ranges from \$1,161 in Bexar County (TX) to \$41 in Baltimore County. Bexar County's average dollar assessment of \$1,162 was imposed on 92% of its probationers. In Nassau County (NY), on the other hand, the average dollar assessment of \$1,080 was imposed on only 1% of its probationers. As noted earlier, the Texas agencies rely heavily on probation supervision fees for their budgets. Consequently, they not only have nearly all of their probationers paying these fees, but they have their probationers paying high fees as well.

The average dollar assessments associated with restitution vary tremendously among the jurisdictions, ranging from a low of \$809 in Jefferson County (KY) to \$24,941 in New York County. As noted earlier, only 2% of the probationers in New York County must pay restitution. In San Francisco, on the other hand, the average dollar assessment of \$21,867 was derived from 15% of its probationers. Restitution to institutional victims tends to skew these average assessments. Caution should be taken in making inferences as to how individual victims fare with restitution.

Average Payment by Jurisdictions

Imposing financial assessments was easy, collecting them were another matter. On average, probationers paid \$972 of the assessments levied against them, which represented 45% of their total liability. As shown in Table 5.4, there was substantial variation in the average amount paid as well as in the percent of the total assessment paid.⁶

With regard to the average payment, the range went from a low of \$494 in Denver to a high of \$2,706 in New York County. Kings County also had a high average payment (\$2,636). In both of these New York

Table 5.3

Average dollar assessment imposed on felony probationers for various financial conditions by jurisdiction

	TYPE OF FINANCIAL CONDITION IMPOSED				
	Average total assessment	Court related assessment	Probation supervision fee	Restitution to victim	Other fees
Total	\$2,172	\$605	\$677	\$3,369	\$219
Baltimore City	3,709	467	148	12,665	890
Baltimore County	1,418	559	41	1,651	132
Bexar County	5,287	516	1,161	9,910	121
Cook County	1,397	558	NA	1,595	123
Dade County	3,780	4,729	477	7,692	NA
Dallas County	2,344	591	812	2,279	338
Denver	841	16	100	1,626	84
Erie County	2,268	1,004	NA	5,615	465
Franklin County	1,783	508	NA	2,631	NA
Harris County	2,406	855	761	1,728	334
Hennepin County	3,720	516	NA	4,553	647
Honolulu County	4,947	1,311	NA	6,178	549
Jefferson County	1,225	367	433	809	1,589
King County	2,585	493	332	3,101	212
Kings County	2,781	677	NA	6,032	197
Los Angeles County	1,200	349	615	3,259	205
Maricopa County	2,436	853	625	3,009	213
Milwaukee County	2,102	378	150	2,618	174
Monroe County	3,918	712	NA	6,112	164
Nassau County	4,353	1,244	1,080	5,624	179
New York County	6,509	1,031	NA	24,941	282
Oklahoma County	2,634	1,336	268	2,988	129
Orange County	2,124	507	1,142	6,958	189
Philadelphia	1,357	537	52	2,462	42
San Bernardino County	2,235	856	461	2,603	550
San Diego County	1,756	478	100	1,369	215
San Francisco	4,008	856	710	21,867	182
Santa Clara County	1,073	448	NA	1,866	249
St. Louis City	1,209	276	NA	1,555	136
St. Louis County	1,202	277	NA	1,551	136
Suffolk County	1,800	422	280	3,274	NA
Ventura County	2,507	676	43	1,896	1,655

NOTE: The "Total" column represents the average assessment imposed, which does not add up to the sum of the individual assessments.

counties, however, there were relatively few probationers who had financial conditions imposed upon them.

The percent of the total assessment paid also varied widely by jurisdiction. The range in the percent of the total assessment paid went from a high of 95% in Kings County to a low of 24% in Baltimore City. However, there is a strong statistical relationship between the amount assessed and the percent of the amount paid (Pearson's $r = -.58$); in other words, as the amount of the assessment goes up, the percent

of payment tends to go down. This is discussed in further detail later in this chapter.

Assessments and Payments by Conviction Offense

Table 5.5 presents the average assessment and payment by the probationer's conviction offense, along with the percent of the total assessment paid. There are considerable differences among the conviction offenses with regard to these items. The average assessment ranges from \$1,084 for drug

Table 5.4

Average dollar assessment imposed on felony probationers, average payment and the percent paid of total assessment, by jurisdiction

	Average total assessment	Average total payment	Percent of total assessment paid
Total	\$2,172	\$972	45%
Baltimore City	3,709	897	24%
Baltimore County	1,418	985	69%
Bexar County	5,287	1,439	27%
Cook County	1,397	1,051	75%
Dade County	3,780	1,366	36%
Dallas County	2,344	1,081	46%
Denver	841	494	59%
Erie County	2,268	1,196	53%
Franklin County	1,783	801	45%
Harris County	2,406	1,299	54%
Hennepin County	3,720	1,218	33%
Honolulu County	4,947	1,250	25%
Jefferson County	1,225	865	71%
King County	2,585	981	38%
Kings County	2,781	2,636	95%
Los Angeles County	1,200	603	50%
Maricopa County	2,436	1,193	49%
Milwaukee County	2,102	813	39%
Monroe County	3,918	1,128	29%
Nassau County	4,353	1,668	38%
New York County	6,509	2,706	42%
Oklahoma County	2,634	843	32%
Orange County	2,124	880	41%
Philadelphia	1,357	746	55%
San Bernardino County	2,235	812	36%
San Diego County	1,756	724	41%
San Francisco	4,008	1,681	42%
Santa Clara County	1,073	727	68%
St. Louis City	1,209	723	60%
St. Louis County	1,202	701	58%
Suffolk County	1,800	892	50%
Ventura County	2,507	1,150	46%

traffickers to \$4,986 for thieves. Probationers convicted of homicide also had a high average assessment imposed on them (\$3,569). Probationers who were convicted of the remaining offenses have a tight range in their assessments from \$1,209 for robbery to \$1,837 for aggravated assault.

Conviction offenses with high average assessments tended to also have high average payments. The highest average payment of \$2,068 occurred with probationers convicted of homicide, followed closely by those probationers who were convicted of larceny

(\$1,710). The lowest average payment was \$659 for probationers convicted of robbery.

With regard to the percent of the total assessment paid, probationers who were convicted of rape or drug trafficking did best, paying off nearly two thirds of their assessment (65% and 63% respectively). Probationers who were convicted of larceny, on the other hand, had the lowest percent of total assessments paid, paying off only one third of their assessment (34%). This poor performance is attributable to the much higher average dollar assessment levied against them.

Table 5.5

Display of the average assessment imposed, average payment made and the percent of total assessment paid, by conviction offense

	Average total assessment imposed	Average total payment	Percent of total assessment paid
Total	\$2,172	\$972	45%
Homicide	3,569	2,068	58%
Rape	1,419	923	65%
Robbery	1,209	659	54%
Aggravated Assault	1,837	836	46%
Burglary	1,413	701	50%
Larceny	4,963	1,710	34%
Drug Traffick	1,084	688	63%
Other felony	1,796	910	49%

Risk Factors and Assessments

Information on financial assessments and payments by probationer risk factors is displayed in Table 5.6. As a review of that table reveals, there is a tendency for judges to impose higher average assessments on those probationers possessing low risk characteristics. Those low risk characteristics tend to be related to the ability to pay.

As the age of probationers increase, so also does the average assessment amount. Probationers under age 20 had the lowest average assessment of \$1,328. The average assessment steadily increases to a high of \$6,184 for those probationers over the age of 50. Similarly, the average total payment also increases with age. Those probationers under 20 had an average payment of \$747. The average payment steadily increases as probationers age, to a high of \$3,085 for those probationers who are 50 or older. There is, however, no similar relationship between age and the percent of the total assessment paid. This percent ranges from a low of 31% for those probationers between 40 and 49 years of age to a high of 56% for those under the age of 20.

Probationers who enjoy maximum employment had higher average assessments and higher average payments than those who are minimally employed. The average assessment for maximum employed probationers was more than twice that of minimally employed probationers (\$3,128 versus \$1,358). This holds for the average payment as well. Maximum employed probationers paid \$1,410 of their assessment compared to \$653 for minimally employed probationers. The percent of the total

assessment paid varied little among the employment categories, ranging from 38% for medium employed probationers to 48% for the minimally employed probationers.

A review of the ability of probationers to completely pay off their financial assessments by their employment level showed that maximum employment probationers had the highest rate of complete payment (31%). This percent was nearly twice as high as that found for minimally employed probationers (17%).

These data on assessments and probationer employment would argue for the implementation of the "day fine" concept. That approach imposes financial assessments in the context of the defendant's daily wage. The purpose of that approach is to impose an "equal" burden on defendants regardless of how much money they earn. Judges appear to be mimicking that approach now, but without the benefit of an articulated program that could be monitored and evaluated.

Probationers with no apparent drug abuse problem evidenced average assessments that were twice the amount of those with drug abuse histories. For the group with no apparent drug use, the average assessment was \$3,058 as opposed to \$1,373 for those probationers with a frequent drug abuse problem. Similarly, probationers who have no apparent drug problem pay an average of \$1,268 in assessments, which is nearly twice that found for those with drug abuse histories. However, those with drug abuse histories had higher percents for the amount of the total assessment paid.

There was a tendency for the courts to impose higher assessments on those probationers who had no criminal history. Probationers without prior felony convictions had the highest assessment rate of \$2,425. The lowest average assessment was imposed on those probationers with one prior felony conviction (\$1,528). The average payment declines from \$1,077 for those with no priors to a low of \$617 for those with two or more priors. The percent of the total assessment paid was highest for those with one prior felony conviction (49%) and lowest for those who had two or more prior felony convictions (37%).

Unlike the other risk variables, there were no patterns to the relationship between the number of moves one year prior to sentencing and financial assessments or payments. The highest average assessment was found in the group which had moved two or more times (\$2,520). The lowest average assessment was for those probationers who had moved once (\$1,829). Probationers who did not move made average payments of \$1,011 for a 45% payment rate. Those probationers who moved twice or more paid \$912 for a payment rate of 36%.

Table 5.6

Display of the average assessment imposed, the average payment made and the percent of the total assessment paid, by selected risk characteristics

	Average total assessment imposed	Average total payment	Percent of total assessment paid
TOTAL	\$ 2,172	\$ 972	45%
AGE			
Under 20 years	1,328	747	56%
20 to 24	1,549	752	48%
25 to 29	1,807	918	50%
30 to 39	2,456	948	38%
40 to 49	3,826	1,313	31%
50 or older	6,184	3,085	50%
EMPLOYMENT STATUS			
Works 60% or more	3,128	1,410	45%
Works 40 to 59%	2,019	764	38%
Works under 40%	1,358	653	48%
DRUG ABUSE			
Nothing Apparent	3,058	1,268	41%
Occassional Abuse	1,413	795	56%
Frequent Abuse	1,373	692	50%
PRIOR FELONY CONVICTIONS			
None	2,425	1,077	44%
One	1,528	746	49%
Two or more	1,652	617	37%
NUMBER OF MOVES			
None	2,244	1,011	45%
One	1,829	845	46%
Two or more	2,520	912	36%

Table 5.7

Percent distribution of probationers who received court imposed financial assessments across the extent of their compliance with those conditions by whether or not the person is still on probation

	PERCENT OF ASSESSMENT PAID						Total
	0%	1 to 24%	25 to 49%	50 to 74%	75 to 99%	100%	
Total	0%	7%	10%	10%	20%	53%	100%
Less than \$100	7%	0%	0%	4%	0%	89%	100%
100 to 249	17%	3%	6%	3%	2%	69%	100%
250 to 499	6%	4%	0%	5%	30%	54%	100%
500 to 999	0%	0%	3%	9%	23%	65%	100%
1000 to 4999	0%	24%	38%	12%	9%	16%	100%
\$5000 or more	0%	69%	6%	10%	3%	11%	100%

Data available on court imposed financial assessments in 59% of the cases.

Amount Assessed and Percent Paid

Table 5.7 complements the observation made earlier that the higher the assessment, the lower the percent for the total assessment paid. Probationers who are required to pay a small amount of money showed the greatest likelihood of making full payment of their financial assessments. Nearly nine out of ten probationers (89%) who were assessed less than \$100 had fully satisfied their assessments. This percent then steadily decreases as the average dollar assessment increases, so that only 7% of probationers assessed \$5,000 or more had achieved full payment.

Another observation that can be drawn from Table 5.7 is that just about every probationer pays something. Less than one half of one percent failed to make any payment at all. Indeed, more than 70% of the probationers had paid off more than half of their

assessment. The only probationers that were evidencing substantial difficulty in making their payments were those who had assessments of \$1,000 or more. For example, seven out of ten probationers who had a financial assessment of \$5,000 or more were only able to pay off less than a quarter of that assessment.

Probation Status and Complying with Financial Conditions

The relationship between the probation status of probationers and their payment of financial assessments tends to mirror that which was found with the behavioral conditions. As shown in Table 5.8, those probationers who have served their term paid, on average, two thirds of the financial assessment levied against them. Nevertheless, there is still a compliance issue with regard to the third of the assessment that is not paid by those who have left probation.

Table 5.8

Display of the average assessment imposed, average payment made and the percent of the total assessment paid

	Average total assessment imposed	Average total payment	Percent of total assessment paid
Total	\$2,172	\$972	45%
Still on Probation	3,475	1,341	38%
Off Probation			
Served term	1,558	1,019	67%
Absconded	2,027	604	30%
Revoked	1,350	587	43%
Died	1,926	606	32%
Other exit	1,670	1,257	65%

Those who are still on probation have managed to pay only 38% of their financial assessment. This low percent is largely due to the fact that those still on probation experienced the highest average assessment (\$3,475). Interestingly, those probationers who were revoked had paid off 43% of their financial assessment before exiting from probation, but this group also had the lowest average assessment (\$1,350). Those who absconded had the lowest rate of payment (30%). Absconders had an average assessment of \$2,027, with an average total payment of \$604.

Summary

Although financial conditions are prevalent, there is a wide range not only in the frequency with which they are used on probationers among jurisdictions, but also in the average amount of the assessment imposed. With regard to paying these financial assessments, there is an inverse relationship between the amount assessed and the percent of the assessment that gets paid; i.e., as the assessment increases, the percent for the total assessment paid decreases.

Substantial differences in assessments and payments are also evident when examined by conviction offense and the risk characteristics of the probationer. Probationers convicted of the property offenses of larceny and burglary incurred high percents for the imposition of financial conditions and those convicted of larceny had the highest average assessment. Those probationers with lower risk characteristics (older, employed, no drug problem, and no prior felony convictions) experienced the highest average assessments and made the largest average payments.

The data on assessments and payments by the employment status of probationers was particularly instructive. Judges appear to be very attuned to the employment status of probationers when they impose financial conditions. Those probationers who enjoy maximum work do fairly well in meeting their financial obligations. Nevertheless, even probationers who enjoy maximum employment are unable to completely pay the assessments levied upon them.

The inability to collect the full financial assessment from probationers, even those who completed their probation terms, mirrors the

compliance problem found with behavioral conditions. This finding suggests that objective and realistic guidelines for financial conditions need to be developed to reflect probationers' ability to pay. One such approach could be the implementation of "day fines." Such a program would work best with those probationers who were employed. Programs for the unemployed and marginally employed probationers would also need to be developed. Because full financial compliance is a barrier to the successful completion of probation, close scrutiny should be given to developing reasonable financial conditions.

Footnotes

1. The questionnaire listed most the prevalent categories of assessments. Less frequently used categories were coded as "other".
2. Information on payments of financial conditions is often incomplete because in some jurisdictions like Los Angeles and San Diego, the money is collected by another agency, or in Baltimore by a separate component of the agency.
3. See Cunniff, Mark A. and Bergmann, Ilene R., *Managing Felons in the Community*, op. cit.
4. Ibid.
5. Please note that the average assessments are not additive in Table 5.3. Each average assessment is derived by summing up the total amount assessed and dividing by the number of probationers receiving that particular assessment. Because the base varies (the number of probationers receiving a particular assessment), one cannot simply add up the averages among the individual assessments to compute the overall average assessment. Instead, the average assessment is computed by adding up the total assessment associated with each probationer and then dividing by the number of probationers with financial assessments.
6. Because the financial assessments were not always collected by the probation agency, there may be incomplete payment information presented in Table 5.4, especially in Los Angeles and San Diego counties.

CHAPTER 6

FORMAL DISCIPLINARY HEARINGS

Introduction

Probation agencies utilize informal and formal control mechanisms to prod probationers into meeting their conditions of probation. Generally, probation agencies cannot add new conditions of probation or revoke probation without initiating a formal disciplinary procedure. Such formal disciplinary procedures are usually held before a judge.¹ Based on the facts presented at such a hearing, the judge determines the validity of the alleged violation. If the judge finds that the felon has violated a condition of probation, there is a range of sanctions that the judge may then impose, from revocation to minor revisions to the original probation order. This chapter examines the frequency with which formal disciplinary hearings are held and the factors that precipitated them. The discussion of the outcome of these hearings is deferred until Chapter 8.

Jurisdictional Variations in Use of Disciplinary Hearings

The data presented in Table 6.1 deals with two aspects of probation disciplinary hearings. The first column indicates the frequency with which formal probation disciplinary hearings were initiated against individual probationers. The next series of percents detail the reason for the disciplinary hearings.

To simplify the presentation of the data, the precipitating factors shown are those associated with the first disciplinary hearing invoked against the probationers. In addition, the reason for the disciplinary hearing is handled as a single response category. For example, a probationer who absconds and is subsequently arrested on a bench warrant could have valid entries on three of the four reasons (rearrested, absconding, and a technical violation). A hierarchy was used for assigning such probationers to a single response category. The hierarchy, in descending order, was: a new conviction; a rearrest; absconding; a technical violation; and other. Other would include such contingencies as a deportation procedure involving illegal immigrants.

Over half of the probationers underwent

at least one formal disciplinary hearing (51%). Absconding was the most prevalent reason for precipitating such a hearing (29%). Probationers who experienced a new arrest while under supervision made up one quarter (26%) of the probationers subjected to disciplinary hearings. Probationers with new convictions constituted another fifth of this group (21%). Only one in five probationers (22%) had formal hearings because of a technical violation of probation. The remaining (1%) had hearings because of other circumstances as deportations.

When examined by jurisdiction, there are substantial variations in the frequency of probation disciplinary hearings, ranging from a high of 72% in Dade County to a low of 28% in Monroe County. The remaining jurisdictions ranged from 29% in Honolulu to 63% in Harris, King (WA), and Orange (CA) counties.

With respect to disciplinary hearings based on new arrests, San Francisco scored highest on this factor (61%). Both Suffolk County and Honolulu, on the other hand, had the lowest percent of disciplinary hearings precipitated by rearrest (2%). This wide range in the incidence of disciplinary hearings attributable to new arrests was affected as much by agency policy as by the criminal activity of probationers.

Many agencies will not automatically invoke a disciplinary hearing solely on the basis of an arrest. Some agencies will await an adjudication of guilt before acting. Indeed, those agencies that have low percents on hearings precipitated by a rearrest tend to have high percents on hearings precipitated by a new conviction. For example, Suffolk County (NY) had the highest incidence of hearings precipitated by new convictions (58%) and the lowest for new arrests (2%).

The incidence of disciplinary hearings precipitated by the probationer absconding varied widely by jurisdiction, ranging from no cases in Suffolk County to a high of 65% in Denver. For most of the remaining jurisdictions, absconding was the precipitating factor in 20% to 30% of the cases.

Table 6.1

Percent of probationers with at least one disciplinary hearing and the percent distribution of probationers across the principal precipitating factors for the first disciplinary hearing by jurisdiction, 1986

PRECIPITATING FACTORS FOR DISCIPLINARY HEARING

	Percent with Disciplinary Hearing	New conviction	New arrest	Absconded	Technical Violation	Other	Total
Total	51%	21%	26%	29%	22%	1%	100%
Baltimore City	53%	42%	9%	22%	25%	2%	100%
Baltimore County	49%	34%	9%	17%	37%	3%	100%
Bexar County	43%	4%	48%	23%	24%	2%	100%
Cook County	41%	1%	36%	23%	39%	1%	100%
Dade County	72%	3%	31%	24%	42%	0%	100%
Dallas County	55%	20%	24%	23%	33%	0%	100%
Denver	35%	13%	12%	65%	11%	0%	100%
Erie County	37%	12%	6%	28%	15%	38%	100%
Franklin County	46%	51%	11%	23%	13%	2%	100%
Harris County	63%	42%	9%	10%	38%	1%	100%
Hennepin County	44%	15%	18%	30%	35%	2%	100%
Honolulu County	29%	26%	2%	50%	22%	0%	100%
Jefferson County	45%	35%	50%	9%	4%	2%	100%
King County	63%	24%	10%	40%	23%	3%	100%
Kings County	44%	16%	54%	26%	2%	1%	100%
Los Angeles County	49%	17%	30%	34%	17%	1%	100%
Maricopa County	49%	24%	20%	26%	30%	0%	100%
Milwaukee County	31%	27%	46%	18%	10%	0%	100%
Monroe County	28%	47%	12%	29%	13%	0%	100%
Nassau County	43%	31%	36%	25%	4%	4%	100%
New York County	46%	27%	46%	22%	4%	0%	100%
Oklahoma County	31%	48%	6%	46%	0%	0%	100%
Orange County	63%	5%	38%	37%	21%	0%	100%
Philadelphia	48%	26%	36%	22%	15%	0%	100%
San Bernardino County	46%	32%	8%	23%	36%	0%	100%
San Diego County	59%	9%	17%	67%	7%	0%	100%
San Francisco	56%	9%	61%	24%	6%	0%	100%
Santa Clara County	46%	39%	16%	25%	16%	5%	100%
St. Louis City	45%	1%	45%	9%	45%	0%	100%
St. Louis County	44%	4%	56%	7%	31%	2%	100%
Suffolk County	38%	58%	2%	0%	32%	8%	100%
Ventura County	58%	41%	6%	23%	30%	0%	100%

Information on disciplinary hearings was available in 85% of the cases.

Disciplinary hearings initiated as the result of a technical violation would generally involve circumstances like the probationer's failure to meet a behavioral condition, drug testing, for example, or a financial condition, such as restitution. Agencies exercise a considerable amount of discretion as to how they will deal with recalcitrant probationers and this is reflected in the wide range among the jurisdictions for disciplinary hearings precipitated by technical violations. Oklahoma County reported no disciplinary hearings

attributable to technical violations. In St. Louis City, on the other hand, nearly half of the hearings (45%) were due to technical violations.

These wide variations indicate different thresholds for invoking disciplinary hearings. There is only a minor statistical relationship among the jurisdictions between the percent of probationers undergoing disciplinary hearings and the percent of all felony sentences receiving probation (Pearson's $r = -0.04$).

Risk and Disciplinary Hearings

Risk assessment provides probation managers with a method for weighing the potential performance of probationers. Although there is no scientific way to predict those specific individuals who will undergo formal disciplinary hearings,² risk assessment does identify segments of the probation population that are likely to incur a higher incidence of disciplinary hearings than the rest of the probation population. This information can assist probation agencies in allocating their supervision resources and to anticipate workload demands on the formal disciplinary hearing process.

The average risk score of the probationer is displayed in Table 6.2, along with the risk variables that contribute to that score, by the various factors that precipitated the disciplinary hearing. As anticipated, the average risk score is highest for those

probationers who underwent a disciplinary hearing for a subsequent conviction (6.5) and is lowest for those accused of a technical violation (4.8). The average risk score for those involved in formal disciplinary proceedings is 5.7, compared to the average risk score of 3.3 for probationers without them.

With regard to the risk variables, each one reveals the same pattern wherein the incidence of formal disciplinary hearings decreases as the risk element decreases. Such patterns, however, do not always persist with the precipitating factors behind the disciplinary hearing.

Younger probationers were more likely to incur a probation disciplinary hearing than older probationers. Six out of ten probationers under the age of 20 experienced a formal hearing. This percent consistently dropped as the probationers' age increased, to a low of 28% for those probationers who were 50 or older.

Table 6.2

Percent of probationers with at least one disciplinary hearing and the percent distribution of probationers across the factors that precipitated the first disciplinary hearing, by various risk characteristics of the probationer

PRECIPITATING FACTORS FOR DISCIPLINARY HEARING

	Percent with Disciplinary Hearings	New conviction	New arrest	Absconded	Technical Violation	Other	Total
TOTAL	51%	21%	26%	29%	22%	1%	100%
MOVES							
None	52%	21%	29%	25%	24%	1%	100%
One	56%	20%	31%	30%	18%	2%	100%
Two or more	64%	23%	22%	35%	19%	1%	100%
EMPLOYMENT							
60 TO 100%	41%	21%	24%	28%	25%	1%	100%
40 TO 59%	58%	23%	26%	33%	17%	1%	100%
Under 40%	64%	21%	28%	30%	19%	1%	100%
DRUG USAGE							
Nothing apparent	46%	22%	28%	29%	20%	1%	100%
Occasional abuse	59%	23%	28%	26%	23%	1%	100%
Frequent abuse	69%	20%	26%	31%	22%	1%	100%
PRIOR FELONY CONVICTION							
None	53%	19%	26%	30%	24%	1%	100%
One	60%	25%	29%	28%	18%	1%	100%
Two or more	65%	30%	25%	28%	16%	1%	100%
AGE							
Under 20	61%	25%	34%	23%	17%	1%	100%
20 to 24	58%	20%	27%	30%	23%	1%	100%
25 to 29	55%	23%	25%	31%	20%	1%	100%
30 to 39	51%	19%	23%	32%	25%	1%	100%
40 to 49	37%	16%	23%	31%	28%	2%	100%
50 or older	28%	12%	18%	33%	32%	4%	100%
AVERAGE RISK SCORE		6.5	5.8	5.5	4.8	5.5	5.7

There was also a pattern with regard to the factors that precipitated the hearing by the age of the probationer. Younger probationers were more likely to have hearings because of a new arrest or conviction, while the older probationers were more likely to be brought up on a technical violation or for absconding. For example, The percent of disciplinary hearings attributable to new convictions drops from a high of 25% for those probationers who were under 20 to 12% for those probationers who were 50 or older. Conversely, those probationers who were 50 or older had more hearings due to technical violations than did those probationers who were under 20 (32% versus 17%).

With regard to employment, the minimally employed group showed the highest incidence of disciplinary hearings (64%) and the maximum employed group the least (41%). Although there were differences in the distributions among the employment groups with respect to the factors leading up to the hearing, there were no strong patterns to be found. New convictions occurred at nearly the same rate for each employment level (21% to 23%). There was a slight pattern with new arrests being the precipitating factor for the hearing, growing from 24% for the maximum employed group to 28% for the minimally employed probationers. Technical violations, on the other hand, were highest for the maximum employed group (25%) and lowest for the medium employed group (17%).

Probationers with no apparent drug abuse problem were less likely to undergo disciplinary hearings than those who had a frequent drug problem. Less than half of those probationers who had no apparent drug history (46%) underwent a disciplinary hearing in contrast to 69% of those who had a frequent abuse problem. As for the precipitating factors for these disciplinary hearings, there are few differences based on prior drug use. For example, new convictions were a precipitating factor for 20% of frequent abusers and 23% of occasional abusers. Similarly with technical violations, there were only slight differences ranging from 20% for those with no apparent drug history to 23% for those who were occasional abusers of drugs.

First time offenders experienced a lower percent of disciplinary hearings than did those probationers with prior felony convictions. Just over half (53%) of the first

time felony offenders were disciplined compared to 65% of those probationers with two or more prior felony convictions. With respect to the precipitating factors for a disciplinary hearing, probationers with no prior felony convictions were less likely to have had a hearing because of a new conviction (19%) than those with two or more prior felony convictions (30%). Conversely, those probationers with no prior felony convictions had a higher percent for technical violations than those probationers who had two or more prior felony convictions (24% versus 16%).

Probationer mobility also affected the incidence of formal hearings. Nearly two thirds of those probationers who changed their residence two or more times in the year before sentencing (64%) underwent a disciplinary hearing as opposed to 52% of those who didn't move at all during that time period. There were some notable differences in the factors that precipitated the disciplinary hearings based on the mobility of the probationer. More than one third of the probationers who moved twice or more during probation (35%) experienced a formal hearing because of absconding. This dropped to a low of 25% for those probationers who did not move. Conversely, new arrests precipitated 29% of the hearings for those who didn't move as opposed to 22% for those with two or more moves. Technical violations also occurred more frequently with those probationers who didn't move compared to those who moved two or more times (24% versus 19%).

Probationer Characteristics

Probationers who were more likely to experience formal disciplinary actions tended to be single young minority males who did not have a high school diploma. Furthermore, new arrest and conviction activity tended to be the precipitating factors behind the hearings for these probationers.

Male probationers incurred more disciplinary hearings than female probationers (52% versus 44%). As for the factors behind those hearings, males were more likely to be there for a new arrest than were females (28% versus 18%), while females had a higher percent involving technical violations (29% versus 21%).

Black probationers had a higher percent for probation disciplinary hearings than did

white probationers (59% versus 48%). Hispanic probationers experienced the same incidence of hearings as white probationers. With regard to the reasons for the disciplinary hearing, white and Hispanic probationers had very similar distributions. There were notable differences, however, between those probationers and black probationers. Twenty-three percent of the disciplinary hearings involving black probationers were due to a reconviction compared to 19% for the white probationers. There was also a slight difference in the percent of hearings attributable to new arrests between black and white probationers (27% and 26% respectively). White probationers, on the other hand, were more likely to have had a formal hearing due to their absconding than did black probationers (32% versus 26%).

There was a strong relationship between probationers with disciplinary hearings and their level of education. As the probationer's educational level went up, the percent of probationers with formal hearings declined.

Nearly 6 out of 10 probationers (59%) without a high school diploma had a formal disciplinary hearing. This percent steadily dropped as educational attainment increased, so that only 29% of those probationers with a college degree underwent a formal disciplinary hearing.

A new conviction was the precipitating factor for 22% of those with a high school diploma in contrast to only 11% for probationers with a college degree. Technical violations, on the other hand, were what brought the better educated probationers to the formal hearing. Thirty-four percent of those probationers with a college degree had a disciplinary hearing because of a technical violation compared to 19% of those probationers who were without a high school diploma.

With marital status, single probationers endured the highest percent for probationers with formal disciplinary hearings (60%). Those probationers who were married or divorced experienced formal disciplinary hearings at

Table 6.3

Percent of probationers with at least one disciplinary hearing and the percent distribution of probationers across the principal precipitating factors for the first disciplinary hearing, by various characteristics of the probationer

PRECIPITATING FACTORS FOR DISCIPLINARY HEARINGS

	Percent with Disciplinary hearings	New conviction	New arrest	Absconded	Technical Violation	Other	Total
TOTAL	51%	21%	26%	29%	22%	1%	100%
SEX							
Male	52%	21%	28%	29%	21%	1%	100%
Female	44%	20%	18%	31%	29%	1%	100%
RACE							
White	48%	19%	26%	32%	22%	1%	100%
Black	59%	23%	27%	26%	23%	1%	100%
Other	51%	14%	17%	36%	29%	4%	100%
ETHNICITY							
Hispanic	48%	17%	23%	37%	22%	0%	100%
EDUCATION							
No high school degree	59%	21%	28%	30%	19%	1%	100%
High school degree	52%	22%	23%	29%	26%	1%	100%
Some college	49%	19%	29%	26%	25%	2%	100%
College degree	29%	11%	21%	33%	34%	1%	100%
MARITAL STATUS							
Married	48%	22%	25%	28%	24%	1%	100%
Divorced	51%	16%	21%	34%	28%	1%	100%
Single	60%	22%	28%	29%	21%	1%	100%

Information on disciplinary hearings and demographic variables was available as follows:
Sex (84%); Race (83%); Ethnicity (19%); Education (71%); and Marital Status (73%).

nearly the same rate (48% and 51% respectively). The most notable differences in the factors precipitating these hearings occurred between those probationers who were divorced and all other probationers. For example, only 16% of the hearings for divorced probationers involved a new conviction compared to 22% for single and married probationers.

Discipline and Conviction Offense

Probationers convicted of homicide or rape were the least likely to be brought up on probation disciplinary charges. As displayed in Table 6.4, fewer than one third of these probationers underwent a disciplinary hearing compared to the highest incidence of 61% found for those probationers convicted of burglary. The remaining probationers experienced a disciplinary hearing between 41% (aggravated assault) and 55% of the time (robbery and larceny).

There were substantial differences among the factors that precipitated the hearings for probationers based on their conviction offense. Renewed criminal activity, as measured by new convictions and arrests, precipitated more than half of the disciplinary hearings for those probationers who were convicted of robbery or burglary.

With robbery, for example, one quarter of the probationers were convicted of a new offense and another 37% were rearrested.

Those probationers who were convicted of rape, on the other hand, had only one third of their disciplinary hearings initiated because of renewed criminal activity, with 17% attributable to a new conviction and another 17% due to a rearrest. Conversely, technical violations were much less prominent among those probationers who were convicted of robbery (14%) compared to those probationers who were convicted of rape (39%). The percent of formal hearings due to technical violations among the remaining probationers ranged tightly between 19% and 25%.

Behavioral Conditions and Discipline

As the number of behavioral conditions on the probationer increased, not only did the likelihood of a disciplinary hearing increase, but the likelihood of multiple hearings increased as well. As shown in Table 6.5, the percent of probationers who experienced no disciplinary hearings dropped from 48% for those with no behavioral conditions to 34% for those with four or more. Furthermore, there was a tendency for probationers with multiple behavioral conditions to have more disciplinary hearings. For example, the percent of probationers with two formal hearings grows from 6% for those with no behavioral conditions to 18% for those with four or more behavioral conditions. Overall, multiple disciplinary hearings are infrequent. Nine percent of the probationers underwent two formal hearings and only 3% were subjected to three or more hearings.

Table 6.4

Percent of probationers with at least one disciplinary hearing and the percent distribution of probationers across the principal precipitating factors for the first disciplinary hearing, by the conviction offense of the probationer

	Percent with Disciplinary Hearings	PRECIPITATING FACTORS FOR DISCIPLINARY HEARING						Total
		New conviction	New arrest	Absconded	Technical Violation	Other	Total	
Total	51%	21%	26%	29%	22%	1%	100%	
Homicide	32%	11%	33%	35%	20%	2%	100%	
Rape	31%	17%	17%	25%	39%	1%	100%	
Robbery	54%	25%	37%	21%	14%	2%	100%	
Aggravated Assault	41%	18%	29%	29%	22%	2%	100%	
Burglary	61%	26%	27%	27%	19%	1%	100%	
Larceny	55%	19%	24%	32%	24%	1%	100%	
Drug Traffick	52%	20%	30%	30%	20%	1%	100%	
Other felony	48%	20%	23%	31%	25%	1%	100%	

Information on disciplinary hearings was available in 85% of the cases.

Table 6.5

Percent distribution for the number of probation disciplinary hearings, by the number of behavioral conditions imposed

NUMBER OF HEARINGS	NUMBER OF BEHAVIORAL CONDITIONS					
	None	One	Two	Three	Four or more	Total
Total	100%	100%	100%	100%	100%	100%
None	48%	44%	36%	36%	34%	44%
One	43%	42%	51%	42%	43%	44%
Two	6%	11%	11%	17%	18%	9%
Three or more	2%	3%	3%	5%	5%	3%

Data on disciplinary hearings was available in 85% of the cases.

Factors Behind Each Hearing

A comparison of the factors precipitating each formal disciplinary hearing appears in Table 6.6. As a review of that table reveals, there are similar distributions among the first, second and last hearings. Nonetheless, some variations do occur. First hearings more frequently involved absconding (29%) than was the case for the last hearing (20%). Technical violations, on the other hand, were the more frequent cause for the last hearing (28%) than for the first hearing (22%). "Other" reasons occurred at a much higher rate for the last hearing than at the first hearing (7% versus 1%).

Time to First Hearing

As displayed in Table 6.7, only 17% of the first disciplinary hearings were held within the first six months of probation. Twice as many were held (35%) after the eighteenth month of the probation term. Nevertheless,

two thirds of the probationers who underwent a disciplinary hearing did so within the first eighteen months of their supervision.

There were no strong patterns to be found between the time to the first hearing and the factor precipitating the hearing. For example, 14% of the hearings involving a new conviction took place within the first six months of supervision and the percent for technical violators in the same time period was 16%.

One component contributing to the time to the first hearing is the elapsed time from the allegation of the violation to the holding of the hearing. As shown in Table 6.8, only 21% of the hearings are held within a month of the allegation. Indeed, sixty-one percent of these hearings took place three or more months from the discovery of the violation.

An examination of the precipitating factor for the hearing and the time to the

Table 6.6

Percent distribution for the principal precipitating factor behind the invocation of each of the formal disciplinary hearings held

	New conviction	New arrest	Technical			Total
	Absconded	Violation	Other			
First Hearing	21%	26%	29%	22%	1%	100%
Second Hearing	17%	29%	24%	27%	3%	100%
Last Hearing*	19%	26%	20%	28%	7%	100%

* If there were more than three hearings, the information presented here is for the last hearing held.

Data on disciplinary hearings was available in 85% of the cases.

Table 6.7

Percent distribution of probationers across the principal precipitating factor for first disciplinary hearing, by the time at which the violation occurred

TIME TO FIRST HEARING	New conviction	New arrest	Absconded	Technical Violation	Other	Total
Total	100%	100%	100%	100%	100%	100%
0 to 6 months	14%	17%	20%	16%	24%	17%
7 to 12 months	26%	28%	30%	27%	22%	28%
13 to 18 months	24%	19%	19%	21%	21%	21%
19 months or more	36%	36%	32%	35%	32%	35%

Information on disciplinary hearings was available in 83% of the cases.

hearing revealed some notable differences. Allegations of technical violations tended to be handled more quickly than those brought on by renewed criminal activity. For example, nearly one third of the technical violators (31%) had a hearing within a month in contrast to only 13% of those brought in on a new conviction. Doubtlessly, this is due to the case processing time associated with the new adjudication of guilt.

Although disciplinary hearings involving technical violations appear to move on a faster track, there is still a substantial portion of cases that take two or more months to go before the judge. Working these hearings into the court's already crowded calendar dealing with criminal cases undoubtedly contributes to this delay. Nevertheless, this kind of delay does not advance the credibility of probation officers with their clients. Given the volume of disciplinary hearings and the need to maintain probation officer credibility, this delay in holding disciplinary hearings needs to be addressed by probation and judicial officials.

Summary

As with the other aspects of probation that have been examined in this report, the prevalence of formal disciplinary hearings varied substantially among the jurisdictions. Surprisingly, those jurisdictions that rely on probation less in their felony sentencing evidenced a higher usage of formal disciplinary hearings.

Risk characteristics were highly associated with those probationers who underwent a formal disciplinary hearing. Those probationers with high risk characteristics, such as prior felony convictions, experienced formal hearings more frequently than those with low risk characteristics.

In addition, the probationers' conviction offense also correlated with the incidence of probation disciplinary hearings. Persons convicted of rape were much less likely to undergo a disciplinary hearing than those who were convicted of robbery. Finally, those probationers with multiple conditions of

Table 6.8

Percent distribution of probationers across the principal precipitating factor elapsed time between the first violation and the first disciplinary hearing

	New conviction	New arrest	Absconded	Technical Violation	Other	Total
Total	100%	100%	100%	100%	100%	100%
Within a month	13%	20%	21%	31%	13%	21%
One to two months	17%	21%	13%	19%	10%	18%
Three months or more	70%	59%	65%	50%	77%	61%

Information on disciplinary hearings was available in 78% of the cases.

probation were more likely to endure disciplinary hearings than those with none or one condition imposed.

Among some of the key findings in this chapter were:

- Half of all probationers experience a formal hearing.
- Renewed criminal activity precipitated nearly one half of these formal hearings (21% for new conviction and 26% for a new arrest).
- Only 22% of the formal hearings were due to a technical violation.
- Probationers without a high school diploma had twice the rate of disciplinary hearings as those with a college degree.
- Probationers under the age of 20 had double the rate of disciplinary hearings than that of those 50 or older.
- Probationers who were minimally employed had a 50% higher rate of disciplinary hearings than those who enjoyed maximum employment.
- Probationers with a frequent drug abuse problem also had a 50% higher rate of disciplinary hearings than those who had no apparent drug problem.
- Absconding as a precipitating factor for disciplinary hearings tended to be constant across demographic and risk characteristics, except for the variable of probationer mobility before sentencing.
- Two thirds of the violations precipitating formal hearings occurred in the first eighteen months of probation.
- The elapsed time between the discovery of the violation and the holding of the formal hearing exceeded two months for 61% of the cases.

Footnotes

1. In one jurisdiction, Bexar County (San Antonio, TX), hearing officers were used to adjudicate formal disciplinary proceedings.

2. Joan Petersillia, et al., *Granting Felons Probation: Public Risks and Alternatives*, Rand Corporation, Santa Monica, April, 1985.

CHAPTER 7

FELONY ARRESTS WHILE UNDER SUPERVISION

Introduction

Criminal activity of probationers is of concern to the public as well as to probation and other justice officials. A measure of that criminal activity is the extent to which probationers get arrested while under supervision. As with all measures, there are limits to such arrest information. On the one hand, arrests represent only that portion of criminal activity for which the probationer was apprehended. On the other hand, some arrests may be made on the suspicion that the person may have committed a crime even though the person was innocent. Despite these limits, arrest information is a useful barometer of probationer criminal activity.

The ability to predict which probationers will be arrested while under supervision has been the topic of considerable research. For example, the Rand Corporation published a study in 1985 titled, *Granting Felons Probation: Public Risks and Alternatives*. The principal purpose of this study was to determine whether or not accurate predictions could be made about which individual probationers would commit new offenses while under supervision in the community. The researchers concluded that, given the information available on these probationers, they could not reliably identify those individuals who would be arrested while on probation.¹

As have other researchers, that research did find, however, that certain probationer characteristics, such as employment status, were related to arrest activity. For example, probationers who were employed experienced lower arrest rates than those who were unemployed.² Relationships between arrest and probationer characteristics were more easily ascribed to general population segments rather than to specific individuals. The information presented here describes how probationer characteristics are associated with arrest activity while under supervision. The purpose of this chapter is to describe not just the frequency with which probationers are arrested for felonies while under supervision, but also the type of offense for which they are

arrested as well. Probationers in the community do pose a risk; but an arrest rate, by itself, renders an incomplete picture of the nature of that risk.

Arrest Records

Generally, there is no systematic method by which law enforcement agencies can notify probation agencies as to when a probationer has been arrested. Many probation officers discover arrest activity by visually reviewing local arrest sheets or by asking the probationer. Consequently, probation agency records on probationer arrest activity can be incomplete.

Even in those few states, such as California, Florida and New York, where there is a systematic method for notifying probation agencies of a probationer's arrest, these programs do not always work as designed. First, the probation agency has to register probationers into the program. Second, law enforcement agencies must submit arrest information to the state's criminal history repository. Third, the criminal history repository must then accept the arrest information. Finally, when the criminal history repository does send a notice of arrest to the probation agency, this information must then make its way to the supervising probation officer and the probationer's file.

The second and third steps noted above (the sending and acceptance of the arrest information) occur in all state criminal history repositories and all states have problems associated with these steps. These problems tend to surface less frequently with felony arrests than with misdemeanor arrests. Felonies are almost always considered to be "fingerprintable" offenses; i.e., state law requires that the arrest be reported to the state's criminal history repository. Law and practice affecting the fingerprinting of persons arrested for a misdemeanor, on the other hand, varies widely around the United States. Consequently, in an attempt to obtain comparable data, this project limited its data collection efforts to felony arrests only.

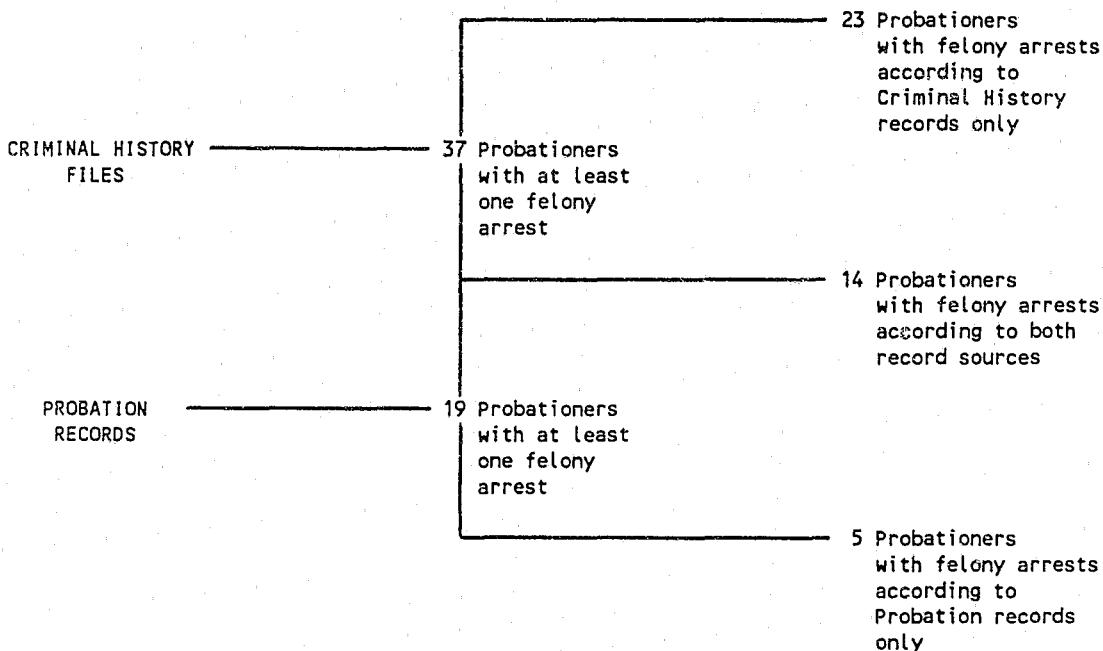
Identifying Probationers with Arrests

Chart 7.1 summarizes how probationers with at least one felony arrest were identified between information contained in criminal history files and probation records. As is evident from chart 7.1, most of the probationers with arrests were identified by the information derived from criminal history files.³ These records identified 37 out of every 100 probationers as having had at least one felony arrest while under probation supervision.

Criminal history files only contain information on arrests occurring within each respective state. Consequently, there would be no "out of state" arrests in these files. Furthermore, because of problems associated in getting arrest information from law enforcement into these files⁴, as alluded to earlier, the arrest information from the criminal history repository may not always be complete. Consequently, probationer files supplemented the information derived from criminal history records (rap sheets).

CHART 7.1

Identification of record sources from which probationer felony arrest activity on 100 typical probationers was ascertained.



NOTE: Information on felony arrests was available for 96% of the cases. When the percent of probationers with felony arrests is computed, only those cases where arrest information was available were used. This increases the percent of probationers with felony arrests from 42% to 43%.

Information collected from probationer files included the number of felony arrests while under supervision and whether a disciplinary hearing was precipitated by a felony arrest. With only 19 out of every 100 probationers having such felony arrest information, probation records revealed substantially less felony arrest activity than that found in the criminal history files. Nevertheless the probation records identified five out of every hundred probationers having felony arrest activity that was not picked up by the criminal history files.

The information from these two record sources was used to create a variable on whether or not the probationer was arrested for a felony while under supervision. If either record source indicated that the probationer was arrested for a felony, the probationer was coded as having had a felony arrest. The probationer was coded as having no felony arrests when both record sources revealed no felony arrest activity or when one record source indicated no arrests and the information was not ascertained in the other.⁵ The criminal history files were particularly useful in providing arrest information for those cases whose probation files could not be located. By using these two record sources, the extent of felony arrest activity was found on 96% of the probationers.⁶

Characteristics of Felony Arrests

Those cases for which the rap sheet indicated a felony arrest provide the data for the analysis of the characteristics of the felony arrest. This section examines: the number of

times probationers were arrested for a felony while under supervision; the offense for which they were arrested; and, where available, the disposition of the arrest, including the disposition offense.

Number of Arrests

The exposure time over which arrest information was gathered averaged 33 months. Information was only collected on those arrests that occurred while the person was under supervision. Overall, 57% of the probationers remained felony arrest free. Among those who did get arrested, most had but one felony arrest (23%). However, a substantial portion of the probationers did experience multiple arrests, with 11% being arrested twice and another 9% being arrested three or more times.

Arrest Offenses

The offenses for which probationers are arrested tend to be public order or property related (Table 7.1). Information on the type of offenses that were involved on each of the first three arrest events is presented. Because there is little variation in the distribution of the offenses for each of the arrest events, the analysis focuses on the distribution for the first arrest. One third of the probationers were arrested for drug law violations: 18% for drug trafficking and another 16% for drug possession. One fifth (20%) of the arrests involved "Other" felonies, which includes such activity as writing bad checks and credit card fraud.⁷ The property offenses of larceny (17%) and burglary (13%) constituted another 30% of the arrests.

Table 7.1

Percent distribution of the arrest offenses, for the first, second and third arrests for probationers who are arrested for felony offenses while under supervision

	ARREST OFFENSE									Total
	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony		
First arrest	1%	1%	6%	7%	13%	17%	18%	37%	100%	
Second arrest	0%	1%	6%	6%	13%	18%	18%	37%	100%	
Third arrest	3%	1%	8%	5%	15%	18%	16%	35%	100%	

NOTE: Information on arrest offense was available in 89% of the cases.

Arrests for violent offenses were infrequent, especially for homicide and rape. Overall, 15% of the probationers who were arrested were charged with a violent offense, with most of those offenses involving aggravated assault (7%) or robbery (6%). Only 1% of the probationers were arrested for a homicide and another 1% for rape. The number of probationers who are arrested for a violent offense can grow when all arrest activity is examined and probationers with any violent offenses are identified. For example, when all three arrest events were aggregated, the percent of probationers with arrests who were arrested for homicide grew to a total of 1.7%, and for those arrested for violent offenses, the percent grew to 19%. While violent crime is a major concern, less than one fifth of the probationers arrested are picked up for violent offenses.

As illustrated in Table 7.1, there are only minor changes in the percent distributions of the felony offenses for which probationers are arrested based on the first, second or third arrest. Indeed, the distributions shown in Table 7.1 generally mirror that found for the distribution of offenses found for felony sentences.

Elapsed Time to First Rearrest

The average elapsed time between the start of supervision and the probationer's first

arrest is 14 months. The elapsed time is shortest for those who are arrested for a burglary (11 months) and longest for those arrested for a homicide (18 months).

Of those probationers who are arrested while under supervision, half are arrested within the first twelve months of their probation (Table 7.2). There are some notable differences in the speed with which probationers get arrested based on the offense for which they are arrested. The path to rearrest is fastest for those probationers who are picked up for a burglary offense, where nearly two-thirds (62%) of the arrests occur within the first twelve months of the probation term. The path is notably slower for those arrested for rape, where only 23% of the arrests occur within the first twelve months.

The information in Table 7.2 is instructive in revealing that those probationers who wish to break the law demonstrate their proclivities early in their probation term. This is particularly true for those who are arrested for public order or property offenses as well as for robbery. The slower path to arrest for the violent offenses of homicide, rape and aggravated assault is also of interest. What is it about these probationers that causes them to delay their violent acts? Is there anything that probation can do to intervene? This study can only raise these questions, which future research will hopefully address.

Table 7.2

Percent distribution for the time to the first felony arrest while under supervision, by arrest offense

	ARREST OFFENSE								
	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	Total
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%
1 - 3 Months	2%	4%	14%	6%	16%	13%	13%	11%	12%
4 - 6 Months	15%	3%	16%	8%	18%	15%	19%	12%	15%
7 - 9 Months	9%	5%	12%	12%	16%	12%	11%	12%	12%
10-12 Months	19%	11%	10%	10%	12%	12%	14%	9%	11%
13-15 Months	10%	12%	10%	10%	8%	9%	8%	10%	9%
16-18 Months	2%	26%	7%	7%	5%	6%	7%	9%	7%
19-21 Months	0%	3%	5%	15%	5%	5%	7%	7%	7%
22-24 Months	5%	25%	8%	7%	4%	8%	5%	7%	7%
25 or more	39%	11%	18%	25%	16%	20%	15%	23%	20%
AVERAGE TIME TO FIRST ARREST (IN MONTHS):	18 MO	16 MO	14 MO	18 MO	11 MO	13 MO	13 MO	14 MO	14 MO

NOTE: Information on arrest offense was available in 89% of the cases.

Table 7.3

Type of sentence imposed on probationers arrested for a felony while under supervision by number of arrests

ARREST OFFENSE	SENTENCE IMPOSED						Total
	Prison	Jail	Jail and Probation	Straight Probation	Other	Sentence Pending	
First arrest	41%	10%	34%	9%	3%	3%	100%
Second arrest	48%	8%	36%	5%	2%	1%	100%
Third arrest	67%	4%	19%	6%	1%	3%	100%

Arrest disposition information was available for each of the three arrests as follows:
First arrest 38%; Second arrest 38%; Third arrest 44%.

New Arrests Lead to Incarceration

The information on arrest outcomes is based on the records from the criminal history files. As noted earlier, the criminal history repositories have problems in recording felony arrest activity. Those problems, however, pale in comparison to the problems in obtaining dispositional data on arrests. Dispositional data was available for only 38% of the arrests reported by the criminal history repositories.⁸

As displayed in Table 7.3, the sentencing pattern on the first felony arrest resulting in a conviction demonstrates a heavy reliance on incarceration.⁹ Eighty-five percent of these probationers are incarcerated. However, only 41% go to prison. Forty-four percent go to jail, with many of these persons receiving another term of probation (34%).

Table 7.3 also shows the differences in the outcomes based on the number of felony arrests for which the probationer was convicted. The major sentencing change that occurs between the first and subsequent arrests is not with the use of incarceration, but rather with the place of incarceration. The use of

prison grows from 41% for convictions on the first arrest to 67% for convictions on the third arrest.

Outcomes Vary by Arrest Offense

The type of sentence imposed varies based on the offense for which the probationer was arrested. Table 7.4 provides data on the type of sentence imposed by the first arrest offense category. The most notable differences in Table 7.4 occur in the use of prison. Probationers, whose first felony arrest is for larceny, go to prison only 26% of the time. On the opposite end of the imprisonment spectrum are those who were arrested for homicide, where 79% are sent to prison.¹⁰

Jail was the most notable sanction used on those probationers who were found guilty as a result of their arrest for a larceny offense. Fifty-nine percent of those probationers who were arrested for a larceny offense received jail terms (16% straight jail and 43% jail with probation). Jail was also heavily used for those who were arrested for "Other" offenses (50%), aggravated assault (46%) and drug trafficking (42%). Jail was not a heavily used

Table 7.4

Type of sentence imposed on probationers arrested for a felony while under supervision, by first arrest offense.

ARREST OFFENSE	SENTENCE IMPOSED						Total
	Prison	Jail	Jail and Probation	Straight Probation	Other	Sentence Pending	
Homicide	79%	1%	10%	0%	0%	10%	100%
Rape	63%	2%	15%	11%	2%	7%	100%
Robbery	57%	17%	16%	4%	4%	1%	100%
Agg. Assault	33%	11%	35%	14%	3%	4%	100%
Burglary	56%	7%	28%	5%	3%	1%	100%
Larceny	26%	16%	43%	10%	3%	3%	100%
Drug Traffick	48%	8%	34%	7%	3%	1%	100%
Other felony	32%	9%	41%	13%	3%	2%	100%

Arrest disposition information was available for each of the offenses as follows:
Homicide:62% Rape:31% Robbery:46% Aggravated Assault:25% Burglary:47% Larceny:41%
Drug Trafficking:41% Other:35%

Table 7.5

Percent distribution for the probationer's arrest offense, by the disposition offense

ARREST OFFENSE	DISPOSITION OFFENSE										Total
	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	Misdemeanor		
Total	35%	0%	4%	4%	7%	10%	10%	23%	7%	100%	
Homicide	70%	0%	5%	14%	0%	1%	0%	10%	0%	0%	100%
Rape	42%	39%	0%	0%	6%	0%	0%	12%	1%	1%	100%
Robbery	14%	0%	55%	4%	0%	6%	0%	8%	12%	12%	100%
Agg. Assault	36%	0%	0%	0%	4%	0%	0%	9%	7%	7%	100%
Burglary	35%	0%	0%	0%	67%	7%	0%	5%	6%	6%	100%
Larceny	37%	0%	0%	0%	0%	46%	0%	8%	8%	8%	100%
Drug Traffick	16%	0%	0%	1%	0%	0%	62%	13%	8%	8%	100%
Other felony	42%	0%	0%	0%	0%	1%	1%	48%	7%	7%	100%

NOTE: Information on the disposition offense was available in 43% of the cases.

sanction employed against those who were arrested for homicide, rape, and robbery. Those arrests tended to result in state prison sentences.

Table 7.5 examines the first arrest offense and its disposition offense. Of all the first felony arrests that resulted in a conviction, only 11% were reduced to a misdemeanor. The highlighted section in Table 7.5 is of the percent of arrests where the arrest charge is also the disposition charge. As illustrated there, the majority of arrests are disposed on the arrest charge, ranging from a low of 64% of the robbery arrests to a high of 83% for those arrested for "Other" felonies. Curiously, the robbery arrests have the highest percentage for dispositions that are misdemeanors (15%).

Probation Rates Correlate with Arrests

An examination of the prevalence of arrests among the jurisdictions participating in this study reveals some remarkable differences. The arrest rate ranges from a low of 20% in Erie County and Honolulu to a high of 58% in San Francisco (Table 7.6). Interestingly, there is very little statistical relationship between the percent of felony sentences to probation and the arrest rate among these jurisdictions.¹¹ There is, however, a notable statistical relationship between the rate of probation cases per 100,000 population and arrest rates for these jurisdictions.¹² Those jurisdictions with high rate of probation tend to have high arrest percents. This indicates that the volume of persons on probation (relative to population) is a better predictor of prospective arrest activity than judicial practices in granting probation.

High probation rates reflect high crime rates. Because probationers are affected by their environment, a jurisdiction's crime rate tends to stay with its probationer population as well.

There are some notable differences among jurisdictions from the same state that reinforce this perspective. In New York State, for example, the arrest rate is high for Kings and New York Counties. These are two of the five boroughs (counties) that make up New York City and their arrest rates are 48% and 46% respectively. The other four counties from New York State (Erie, Monroe, Nassau and Suffolk) have arrest rates that are substantially below these, ranging from 20% in Erie County to 30% in Suffolk. The crime problem is much more severe in New York City than it is in these other New York counties, and it appears that the respective probationer populations mirror that phenomenon.

There is substantial variation among the Texas counties as well. The arrest rate ranges from 29% for Bexar County to 42% for Harris County and 46% for Dallas County. Among the California counties, four counties have arrest rates that cluster between 53% to 58% (Los Angeles, Orange, San Bernardino and San Francisco). San Diego and Santa Clara have notably lower arrest rates than those four counties (48% and 46% respectively). Ventura County has the lowest arrest rate (38%) among the California counties.

The varying profiles of the probationer population with which these jurisdictions have to work no doubt contributes to the different

Table 7.6

Percent of probationers with at least one felony arrest, by jurisdiction

	Percent with at least one felony arrest
Total	43%
Baltimore City	47%
Baltimore County	40%
Bexar County	29%
Cook County	31%
Dade County	45%
Dallas County	46%
Denver	27%
Erie County	20%
Franklin County	25%
Harris County	42%
Hennepin County	36%
Honolulu County	20%
Jefferson County	37%
King County	35%
Kings County	48%
Los Angeles County	54%
Maricopa County	33%
Milwaukee County	34%
Monroe County	22%
Nassau County	25%
New York County	46%
Oklahoma County	53%
Orange County	53%
Philadelphia	42%
San Bernardino County	53%
San Diego County	48%
San Francisco	58%
Santa Clara County	46%
St. Louis City	27%
St. Louis County	26%
Suffolk County	30%
Ventura County	38%

NOTE: Information on new arrests was available in 96% of the cases.

arrest rates across the country as well as within a state. Conviction offense, along with the risk and demographic characteristics of probationers affect arrest rates.

These arrest rates are also affected by the different exposure time for collecting the arrest information. The arrests measured in this study are those arrests that occurred while the person was under supervision. Consequently, the arrest rates may be low for those jurisdictions with low probation terms. In King County (WA), for example, the

average probation term is only 16 months. Among some of the other jurisdictions that have average probation terms of less than 30 months are: Dade County; Santa Clara County; and St. Louis City.

Arrest Rates Vary by Conviction Offense

The incidence of new felony arrests varies by the offense for which probationers were originally sentenced to probation. As shown in Table 7.7, probationers who were sentenced for robbery have the highest arrest rate (57%),¹³ closely followed by those who were sentenced for burglary (52%) and drug trafficking (45%). Probationers convicted of homicide and rape, on the other hand, have the lowest incidence for being arrested (22% and 21% respectively).

As is evident from Table 7.8, the conviction offense that initially sent the person to probation provides minimal guidance as to the type of offense for which the probationer gets arrested while under supervision. There is a tendency for the modal category to be composed of the match between the arrest offense and the original conviction offense (this match is highlighted in Table 7.8). Persons who were sentenced to probation for robbery, burglary, larceny, drug trafficking or "Other" felony offenses have as the modal arrest offense group the same offense which brought them to probation. However, in no instance does this modal group exceed 50%. The highest match occurs with probationers sentenced for an "Other" offense (49%). There is also a sizeable portion of convicted drug

Table 7.7

Percent of probationers who are arrested while under supervision, by original conviction offense.

ORIGINAL CONVICTION OFFENSE	Percent with at least one felony arrest
Total	43%
Homicide	22%
Rape	21%
Robbery	57%
Aggravated Assault	36%
Burglary	52%
Larceny	40%
Drug Traffick	45%
Other felony	41%

NOTE: Information on new arrests was available in 96% of the cases.

traffickers being arrested on another drug trafficking offense (41%). Persons who were sent to probation because of a homicide or rape conviction, on the other hand, are not likely to get arrested for another homicide or rape. Rather, they are likely to be arrested for an "other" felony (31% and 40% respectively). Indeed, of all the probationer arrests involving homicide, only 1% was attributable to those probationers who were initially sent to probation for a homicide conviction.¹⁴

Risk Factors Correlate with Arrest Rates

The relationship between the various probationer risk characteristics and felony arrest while under supervision is quite strong. The Pearson's r for the relationship among jurisdictions between average risk scores and percent of probationers arrested is 0.35. In addition the average risk score is 40% higher for those with a felony arrest than those without an arrest (5.4 versus 3.8). As shown in Table 7.9, probationers who are arrested for a burglary while under supervision had the highest average risk score (5.9), followed closely by those who had a robbery arrest (5.6). Those probationers who were arrested for rape, on the other hand, had the lowest average risk score among those who were arrested (4.5).

The five risk characteristics examined here are: probationer mobility one year prior to sentencing; employment status; drug usage; prior felony convictions; and age at sentencing. As illustrated in Table 7.9, as the risk element in each variable increases, so also does the arrest rate. For example, probationers with no prior felony convictions had an arrest rate of 37% in contrast to 60% for those who had two or more prior felony convictions.

The weakest relationship among the risk variables with regard to felony arrest while under supervision exists with the probationer's mobility one year prior to sentencing. The arrest rate grows modestly from 41% for those with no moves one year prior to their sentencing to 51% for those with two or more moves. The strongest relationship, on the other hand, occurs with the probationer's age at sentencing. There the arrest rate steadily and sharply decreases as the age of the probationer increases, falling from 60% for those under the age of 20 to only 17% for those 50 or older.

The patterns with regard to the type of offense for which these various probationer segments are arrested while under supervision are weak. For example, probationers with two or more priors are slightly more likely to be arrested for larceny than those with no prior felony convictions (20% versus 16%). Curiously, there is only a slight difference in the percent of arrests attributed to drug trafficking among the different levels of drug usage, going from 16% for those probationers with no apparent problem to only 21% for those with a frequent abuse problem.

The most notable patterns among the risk characteristics on the offenses for which the probationers are arrested emerge with the age of the probationer at sentencing. The percent of arrests involving robbery and burglary generally decreases as the age of the probationer increases.¹⁵ With burglary, for example, the percent of arrests drops from 16% for those under 20 to 6% for those 50 or older. The older probationers are more likely to be arrested for an "Other" felony.

Table 7.8

Percent distribution for the probationer's arrest offense, by the original conviction offense

ARREST OFFENSE

	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	Total
Total	1%	1%	6%	7%	13%	17%	18%	37%	100%
Homicide	21%	2%	2%	10%	2%	17%	14%	31%	100%
Rape	2%	13%	8%	14%	7%	7%	9%	40%	100%
Robbery	1%	2%	26%	9%	12%	15%	8%	26%	100%
Aggravated Assault	4%	3%	4%	26%	10%	11%	11%	30%	100%
Burglary	1%	1%	5%	7%	31%	19%	9%	27%	100%
Larceny	1%	1%	7%	5%	14%	31%	10%	32%	100%
Drug Traffick	2%	1%	4%	6%	5%	9%	61%	30%	100%
Other felony	1%	1%	5%	6%	9%	16%	15%	49%	100%

NOTE: Information on arrest offense was available in 89% of the cases.

Table 7.9

Percent of probationers with at least one felony arrest and the percent distribution of probationers across the first arrest offense, by various risk characteristics of the probationer.

	Percent with at least one felony arrest	FIRST FELONY ARREST OFFENSE								Total
		Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony	
TOTAL	43%	1%	1%	7%	7%	12%	17%	19%	36%	100%
MOVES										
None	41%	2%	1%	6%	8%	9%	16%	21%	37%	100%
One	44%	1%	1%	7%	6%	12%	18%	16%	39%	100%
TWO OR MORE	47%	1%	1%	7%	7%	17%	15%	14%	37%	100%
EMPLOYMENT										
60 TO 100%	30%	1%	1%	5%	8%	10%	16%	15%	44%	100%
40 TO 59%	45%	0%	2%	6%	6%	9%	19%	16%	43%	100%
Under 40%	51%	1%	1%	7%	6%	12%	17%	21%	35%	100%
DRUG USAGE										
Nothing apparent	36%	1%	2%	8%	10%	11%	17%	16%	36%	100%
Occasional abuse	44%	3%	2%	6%	6%	13%	15%	18%	38%	100%
Frequent abuse	55%	0%	0%	5%	5%	12%	18%	21%	39%	100%
PRIOR FELONY CONVICTIONS										
None	37%	2%	1%	6%	8%	12%	16%	18%	36%	100%
One	54%	1%	1%	5%	6%	11%	19%	18%	38%	100%
TWO OR MORE	60%	0%	1%	6%	6%	11%	20%	15%	40%	100%
AGE										
Under 20	60%	3%	1%	8%	7%	16%	21%	18%	26%	100%
20 to 24	48%	1%	1%	8%	8%	13%	16%	19%	34%	100%
25 to 29	45%	1%	1%	6%	7%	12%	13%	20%	41%	100%
30 to 39	37%	1%	1%	4%	7%	10%	21%	15%	41%	100%
40 to 49	30%	1%	2%	2%	7%	12%	18%	12%	46%	100%
50 or older	17%	0%	0%	5%	8%	6%	14%	27%	41%	100%
AVERAGE RISK SCORE	5.4	5.2	4.5	5.6	5.0	5.9	5.7	5.3	5.3	5.4

NOTE: The average risk score for those probationers who were not arrested was 3.8.

Information on arrest was available in 96% of the cases and for arrest offense in 89% of the cases.

Probationer Demographics Affect Arrest Rates

Table 7.10 shows the arrest rates for selected demographic characteristics of the probationer. All of these characteristics display substantial variation. Male probationers have a much higher arrest rate than do female probationers (46% versus 30%). The arrest rate is also notably higher for minority probationers than for white probationers. The arrest rate is

54% for black probationers and 44% for Hispanic probationers compared to 37% for white probationers.¹⁶ The characteristic with the strongest relationship to arrest while under supervision, however, is that of educational attainment.¹⁷ The arrest rate drops from 47% for those probationers without a high school diploma to 19% for those with a college degree.

Table 7.10

Percent of probationers with at least one felony arrest, by various demographic characteristics of the probationer.

		Percent with at least one felony arrest
	TOTAL	43%
SEX	Male	46%
	Female	30%
RACE	White	37%
	Black	54%
	Other	29%
ETHNICITY	Hispanic	44%
EDUCATION	No high school degree	47%
	High school degree	40%
	Some college	34%
	College degree	19%
MARITAL STATUS	Married	34%
	Divorced	34%
	Single	48%

NOTE: Information on arrest was available in 96% of the cases.

Summary

This information on arrest activities and outcomes is useful from a public policy perspective to be able to gauge the scope of the risk that probationers present to the community. Facts are needed in the discussion of assessing the benefits and the risks associated with probation. A major benefit of probation is that its costs are substantially lower than those associated with incarceration. This cost savings are due to the lower level of control that probation agencies exercise over probationers than if they were placed in a secure correctional environment. Consequently, persons who are placed on probation present a risk to the community.

Probationers do get arrested. However, the vast majority of these probationers are arrested for public order or property offenses. Indeed, with the increase in the number of arrests associated with drug offenses and given the high portion of persons who are placed on probation as the consequence of a drug charge conviction, the frequency with which probationers get arrested can be expected to increase. The threat that probationers represent, however, is primarily to property rather than to a person's physical well being.

Some of these property offenses, such as burglary, can be traumatic to victims. However, while some probationers do commit violent offenses, they constitute a minority of the arrests. Furthermore, probationers who are arrested and convicted do get punished. Eighty-five percent are incarcerated in prison or jail for their offenses.

Probation agencies need to be able to muster this kind of information on probationer arrest activity. To accomplish this, however, requires a better quality of information on probationer arrest activity than is currently available. There are some major administrative barriers that have to be overcome to improve arrest information and those barriers are not just within probation but across the criminal justice system.

Footnotes

1. See Petersilia, et. al., *Granting Felons Probation*, p. 59.
2. Ibid., p. 52.
3. This was done in all of the jurisdictions except Cook County, Denver and St. Louis City and County, where access to the criminal history information was restricted. In these jurisdictions, the probation agency coded arrest information from the most recent "rap" sheet in the probationer's file and/or arrest information from local computerized arrest registers.
4. A legible set of fingerprints must accompany each arrest form sent to a criminal repository. If the staff at the repository cannot read the fingerprints, they will not enter the information into their files. While a resubmission of a fingerprint card could resolve such a problem, the defendant might not be in the custody of the arresting agency when such a resubmission request is made. This is a problem with most repositories around the United States.
5. The impact of these decision rules raised the percent of probationers with felony arrests from the 37% based on the rap sheet to 41% with the additional information provided by the probation records. In computing arrest rates, those cases for which the information was not ascertained (4%) was excluded from the base. As a result, the overall arrest rate becomes 43%.
6. Although the study was able to locate probation records for 80% of the probationers in this study, there was sufficient data from the sentencing data base to make successful inquiries on nearly all of the probationers.
7. This 20% is derived by subtracting the drug possession cases (16%) from the entry shown under "Other" (37%) in Table 7.1.
8. Information on whether or not the arrest resulted in a finding of guilt is not reported here because of our strong suspicion that the data are heavily biased toward reporting on cases where a finding of guilt was made. A 75% conviction rate is far above what other research reveals in this area. This suspected bias toward guilty cases does not affect the integrity of the data on sentencing outcomes, however.

9. The conviction for which these sentences are imposed includes misdemeanors; i.e., not all of the felony arrests resulted in felony convictions.

10. Please note that the arrest offense is not always the disposition offense. See Table 7.5.

11. The Pearson's r for the relationship among these counties between the percent of felony sentences to probation and arrest rates is 0.06. Pearson's r has a range of 1.0 to -1.0, with 0 indicating no relationship.

12. The reader is referred to Table 2.1 for the probation rate per 100,000. The Pearson's r for the relationship between the probation rate and the arrest rate is .47.

13. The two New York City boroughs discussed earlier have a high percent of probationers who were sentenced to probation for a robbery conviction. Nineteen percent of the probationers in New York County and 25% of the Kings County probationers were convicted of robbery in contrast to the 5% average for all 32 jurisdictions in this study.

14. This eclecticism in criminal behavior presents another stumbling block for those who want to devise prediction

methods on probationer criminal activity. To be truly useful those prediction methods would have to work not only on identifying those probationers who would reoffend, but the type of offense that they would be committing as well. Violent crime is a major concern to the public. In examining the rearrest information, only 10% of the rapes are committed by those who were sentenced for rape; only 28% of the robberies were committed by those who were sentenced for robbery; and only 38% of those burglaries were committed by those who were sentenced for burglary.

15. This is similar to the pattern found with the original sentencing analysis.

16. The arrest rate for white probationers includes Hispanic probationers. Consequently, the arrest rate for non-Hispanic white probationers would fall below 32% if the Hispanic probationers were removed from the computation.

17. There is considerable overlap between age and educational attainment. That overlap undoubtedly contributes to the strong relationship between arrest and education.

CHAPTER 8

PROBATION SUPERVISION STATUS

Introduction

The average probation term for persons sentenced to probation in this study was 42 months. As a result, many of these probationers were no longer under supervision. Among the exits that probationers could have made were: served term; absconded; revoked; and other. In examining probationers who served their terms, this study made no distinction between those who completely satisfied their conditions of probation and those who did not. An unsatisfactory closure might have involved the probationer's failure to satisfy a financial condition of probation, such as paying restitution to the victim. This analysis did not attempt to grade probationers who served their term on how well they complied with their conditions. Consequently, probationers, who are designated as having completed their term, should not be viewed as total successes.¹

The use of the term, "absconder," also requires some explanation. Agencies tend to use the same time threshold for designating a probationer as an absconder; i.e.; failure to notify their probation officer of their whereabouts in a 30 to 60 day time period. Persons who have absconded, but who eventually returned to probation are not classified as absconders in this study. They fall among one of the other categories describing probation status. Rather "absconder" is reserved for those who failed to maintain contact with the agency and whose whereabouts were still unknown at the time the probationer questionnaire was completed.

The term, "revocation," can have different meanings among probation agencies. In Denver, for example, probationers are revoked whenever charges of a rule infraction are sustained at a formal disciplinary hearing. Revocation means that the original probation order was cancelled, but in most instances it is replaced by a new probation order.

Similarly, some agencies such as Dade County and many of the California counties treat probationers who become incarcerated in local correctional institutions, such as the county jail, as having had their probation revoked. For the purposes of this study, being

sent to jail does not constitute a revocation. Rather, such cases are treated as having served their term.² The only probationers who were classified as having had their probation revoked were those who were sent to state prison because of a sentence for an offense committed while on probation or as the result of a probation disciplinary hearing.

The "Other" category is comprised of probationers who died or who were deported from the United States. Other also includes such circumstances as probationers being extradited to stand trial in another jurisdiction for an offense committed before the imposition of the current probation sentence.

Probation Outcomes

Nearly one third (31%) of cases examined in this study were still under active supervision (Table 8.1). Of those who left probation, the majority had served their term (34%). A near equal share of probationers, however, experienced failure. More than one in five probationers (22%) were revoked and an additional 10% had absconded.

Overall the average time on probation for these probationers was 27 months. Those probationers who were still under supervision had the longest exposure time (37 months) at the time the questionnaire was completed. Many of these probationers still on probation had 60 month probation terms. Those probationers who failed probation had the shortest exposure time. Probationers who absconded averaged 17 months of supervision and those who were revoked averaged 18 months of supervision. Falling in between these groups were those who served their term, with an average exposure time of 27 months.

An examination of the supervision status of probationers by their conviction offense (Table 8.1) reveals some notable differences. More than half of those probationers convicted of homicide or rape are still under active supervision compared to the overall average of 31%. Persons convicted of these offenses tend to receive longer probation terms than the other probationers. For example, persons convicted of rape are sentenced to a 57 month probation term on

Table 8.1

Percent distribution of probationers across their supervision status, by conviction offense

	Average Probation Term	SUPERVISION STATUS OF PROBATIONER						Total
		Still on probation	Completed probation	Absconded	Probation revoked	Other	Total	
Total	42 Months	31%	34%	10%	22%	4%	100%	
Homicide	52 Months	55%	29%	6%	8%	2%	100%	
Rape	57 Months	58%	19%	6%	12%	5%	100%	
Robbery	49 Months	34%	27%	10%	26%	3%	100%	
Aggravated Assault	41 Months	36%	41%	7%	12%	4%	100%	
Burglary	44 Months	26%	31%	10%	29%	4%	100%	
Larceny	41 Months	30%	32%	12%	23%	4%	100%	
Drug Trafficking	41 Months	27%	33%	12%	26%	3%	100%	
Other felony	40 Months	32%	36%	9%	19%	4%	100%	
Average time on probation:		37 Months		27 Months	17 Months	18 Months	22 Months	27 Months

average, as opposed to the average term of 41 months imposed on persons convicted of larceny.

With the exception of robbery, persons convicted of a violent offense have the lowest revocation rates among the probationers. The revocation rate for probationers convicted of homicide is one third of the overall average (8% versus 22%). The revocation rate is slightly higher for those convicted of rape or aggravated assault (12% each).

The only violent conviction offense with a high revocation rate was robbery. Probationers who were convicted of robbery had the second highest revocation rate (26%) which was shared by those who were convicted of drug trafficking. Probationers who were convicted of burglary had the highest revocation rate (29%).

Those probationers who were convicted of a violent offense (except robbery) also had the lowest absconding rates (6% to 7%). Probationers who were convicted of larceny or drug trafficking had the highest absconding rates (12% each).

Administrative Matters and Supervision Status

The relationship between the initial supervision level on which probationers were placed and their current supervision status is displayed in Table 8.2. The most evident pattern there occurs with probation revocation. As the level of supervision decreases, so also does the revocation rate. For example, nearly one third of those probationers under intensive probation (31%) are revoked. The revocation

rate then steadily declines to a low of 8% for those probationers who are under administrative supervision. To the extent that probation agencies use these different supervision levels to identify the nature of the risk posed by the probationer, the data here support the underlying validity of that approach. However, while these differences are substantial, the predictions made are far from infallible and should be viewed from a general administrative perspective of trying to allocate workload among probation officers, rather than predicting individual outcomes.

Curiously, absconding occurs at a similar rate at all of the supervision levels. The rate of absconding ranges from a low of 7% for those under minimum supervision to a high of 11% for those under intensive supervision.

With regard to those probationers who had completed their probation term, there is a tendency for the percent of probationers who completed their probation term to decline as the level of supervision increases. For example, more than half of those probationers who were placed under administrative supervision had completed their probation term (51%) in contrast to less than one quarter for those who were placed under intensive supervision (23%).

PSI's and Revocation

In Chapter 3 of this report, the topic of presentence investigation reports was discussed. Data on the supervision status of the probationer by the recommendation made in the PSI report is shown in Table 8.2. The revocation rate for probationers who did not

receive a recommendation for probation is more than 50% higher than those for whom probation was recommended (34% versus 21%). Although there was a substantial difference, more than half of the probationers, who were not recommended for probation, have managed to succeed either by completing their term or remaining under supervision. Interestingly, there is very little difference in the absconding rates between those probationers who received a recommendation for probation in their PSI and those who did not.

Supervision Level and Revocation

Table 8.2 also presents data on the supervision status of the probationer by the number of probationers assigned to supervising probation officers. This variable is closely linked to the supervision level in that there tends to be smaller caseloads associated with the higher supervision levels. What is of particular interest in this segment of the table is the data under absconding. While the

highest absconding rates occur for those probationers who are supervised by probation officers with caseloads of more than 150, there is no consistent variation among those probationers who are supervised by probation officers whose caseload is below 150. For example, twelve percent of the probationers who are supervised by probation officers whose caseloads range from 51 to 100 abscond. However, the absconding rate is actually lower for those who are supervised by probation officers whose caseload is between 101 to 150 (4%). Lower caseloads by themselves would appear to have no direct impact on lowering the absconding rate.

Risk Score and Revocation

The last set of statistics presented in Table 8.2 deal with the average risk scores of the probationers. While the average risk score is highest for those probationers who were revoked, the margin between these probationers and the others is not very large.

Table 8.2

Percent distribution of probationers across their supervision status, by initial supervision level, the PSI recommendation and the number of probationers assigned to supervising probation officers

	SUPERVISION STATUS OF PROBATIONER					
	Still on probation	Completed probation	Absconded	Probation revoked	Other exit from probation	Total
TOTAL	31%	33%	10%	22%	4%	100%
LEVEL OF SUPERVISION						
Intensive	33%	23%	11%	31%	2%	100%
Maximum	34%	25%	10%	28%	3%	100%
Medium	34%	36%	10%	16%	4%	100%
Minimum	41%	36%	7%	11%	6%	100%
Administrative	25%	51%	10%	7%	7%	100%
PSI RECOMMEND PROBATION						
Yes	35%	30%	11%	21%	3%	100%
No	31%	20%	10%	34%	5%	100%
NUMBER OF PROBATIONERS ASSIGNED TO SUPERVISING PROBATION OFFICER						
1 to 50	36%	21%	8%	33%	1%	100%
51 to 100	26%	34%	12%	25%	3%	100%
101 to 150	37%	35%	4%	18%	6%	100%
Over 150	34%	19%	12%	26%	13%	100%
AVERAGE RISK SCORE	4.0	3.9	4.6	5.5	4.5	4.4

For example, the average risk score for those who were revoked is 5.5 while the average risk score for those who completed their probation is 3.9. The risk score works in a modest way to identify, in the aggregate, those probationers who will be revoked. The impact of the risk score on identifying prospective absconders is negligible, where the average risk score for absconders is 4.6 compared to the overall average of 4.4.

The predictive value of risk scores, as with the PSI recommendation, is very modest in the aggregate. Efforts should be made to

improve risk assessment. However, the focus of such efforts should be managerial in terms of designing programs and rationalizing probation officer caseloads.

Probation Status and Risk Factors

Each variable that is used to compute the risk score,³ shows a relationship to revocation. As illustrated in Table 8.3, the strength of that relationship varies among the risk characteristics. The relationship is very strong with age, but of only modest impact

Table 8.3

Percent distribution of probationers across their supervision status, by selected RISK characteristics

	SUPERVISION STATUS OF PROBATIONER					
	Still on probation	Completed probation	Absconded	Probation revoked	Other exit from probation	Total
TOTAL	31%	34%	10%	22%	4%	100%
AGE						
Under 20 years	32%	27%	8%	30%	3%	100%
20 to 24	27%	33%	11%	26%	4%	100%
25 to 29	29%	34%	11%	23%	3%	100%
30 to 39	31%	35%	11%	19%	4%	100%
40 to 49	37%	39%	8%	11%	4%	100%
50 or older	42%	38%	7%	6%	7%	100%
EMPLOYMENT STATUS						
Works 60% or more	38%	35%	8%	14%	5%	100%
Works 40 to 59%	32%	29%	13%	22%	4%	100%
Works under 40%	25%	30%	12%	29%	4%	100%
DRUG ABUSE						
Nothing Apparent	33%	36%	11%	16%	4%	100%
Occasional Abuse	28%	32%	10%	27%	4%	100%
Frequent Abuse	28%	25%	11%	32%	4%	100%
PRIOR FELONY CONVICTIONS						
None	31%	33%	11%	20%	4%	100%
One	26%	30%	10%	30%	3%	100%
Two or more	27%	27%	8%	35%	3%	100%
NUMBER OF MOVES						
None	32%	34%	9%	21%	4%	100%
One	32%	30%	13%	21%	4%	100%
Two or more	25%	30%	16%	24%	5%	100%

Data on supervision status and risk characteristics was available as follows:
Age (100%); Employment Status (100%); Drug Abuse (100%); Prior Felony Convictions (100%); and Number of Moves (100%).

with regard to the number of moves made by the probationer in the year before being sent to probation. The revocation rate steadily decreases as the age of the probationer increases, going from a high of 30% for those probationers under 20 to only 6% for those probationers who are over 50 years of age.

While not as strong as age, there is also a substantial relationship between revocation and the probationer's employment status and drug abuse history. With employment status, as the percent of time employed decreases, the revocation rate increases. For example, the revocation rate for those who are working 60% of the time or more is half of that found for those who work less than 40% of the time (14% versus 29%).

Similarly, as the drug abuse history of probationers worsens, the likelihood of their being revoked increases. For example, the revocation rate for those without any apparent drug problem is 16% compared to 32% for those with a frequent abuse problem. The relationship between revocation and prior felony convictions is also notable. The revocation rate increases from 20% for those with no prior felony convictions to 35% with two or more prior felony convictions.

The risk variable that reveals only a minimal relationship to revocation is probationer mobility. There is only a three percentage point spread in the revocation rates for those probationers who did not move one year prior to their sentence and those that moved two or more times (21% to 24%). The mobility variable is more correlated to the risk of the probationer absconding. Probationers who move frequently have slightly higher absconding rates. For example, those probationers who moved two or more times prior to sentencing had an absconding rate of 16% as opposed to the 9% found for those who did not move at all.

The other risk variables have only a marginal relationship to absconding. There is only a minor change in absconding rates with employment status where the absconding rate rises from 8% for those working 60% of the time or more to 12% for those who are working less than 40% of the time. There is a negative relationship between absconding and the number of prior felony convictions such that as the number of prior felony convictions goes up, the absconding rate goes down. For

example, the absconding rate for persons with no prior felony convictions is 11% and then it falls to 8% for those who had two or more felony convictions.

Probationer Characteristics and Revocation

Information on the probation status of probationers by their various individual characteristics is displayed in Table 8.4. As a review of the revocation column in that table demonstrates, some of these individual characteristics correlate to revocation. The strongest relationship occurs with the probationer's educational attainment. The more education that probationers have, the less likely that they will be revoked. For example, the highest revocation rate appears for those probationers who do not have a high school diploma (26%). From there, the revocation rate declines to a low of 8% for those with a college degree.

Differences also occur based on the sex, marital status and race of the probationer. Male probationers have a 24% revocation rate compared to 14% for the female probationers. Single probationers have higher revocation rates than those who are married (26% versus 19%). Minorities endure higher revocation rates than do white probationers. While one out of five white probationers (20%) was revoked, the revocation rate was 24% for Hispanic probationers and 29% for black probationers.

With regard to absconding, there is remarkably little variation among the various demographic characteristics here, with the exception of education. Absconding is highest among the least educated probationers. Twelve percent of those probationers without a high school diploma abscond compared to only 6% of those with a college education.

Jurisdictional Variations in Revocation

The distribution of probationers by their supervision status varies substantially among the participating jurisdictions. The differences with regard to those who are still on probation as opposed to those who have served their term is largely a function of the average probation term being imposed. In King County (WA), for example, the average probation term is 16 months. Consequently, the high percent for probationers having

Table 8.4

Percent distribution of probationers across their supervision status,
by selected demographic characteristics

	SUPERVISION STATUS OF PROBATIONER					
	Still on probation	Completed probation	Absconded	Probation revoked	Other exit from probation	Total
SEX						
Male	29%	34%	10%	24%	3%	100%
Female	38%	35%	9%	14%	4%	100%
RACE						
White	32%	35%	10%	19%	4%	100%
Black	26%	33%	10%	28%	3%	100%
Other	40%	33%	10%	16%	1%	100%
ETHNICITY						
Hispanic	27%	31%	14%	23%	4%	100%
EDUCATION						
No high school degree	28%	30%	12%	26%	4%	100%
High school degree	33%	33%	9%	21%	4%	100%
Some college	36%	33%	9%	19%	4%	100%
College degree	41%	38%	6%	8%	7%	100%
MARITAL STATUS						
Married	35%	32%	10%	19%	5%	100%
Divorced	34%	33%	11%	18%	5%	100%
Single	28%	31%	11%	27%	3%	100%

Demographic Data was available at the following rates for each of the following categories:
Sex (99%); Race (97%); Ethnicity (82%); Education (74%); and Marital Status (76%).

completed their probation term in King County (73%) is not surprising. Similarly, the average probation term imposed in New York State is 60 months. The high percents for persons still under supervision found among the New York jurisdictions is expected. For example, sixty three percent of the probationers in New York County (Manhattan) are still under active supervision.

The percent of probationers who are either under active supervision or who completed their probation term is also affected by the extent to which probationers abscond or are revoked. As illustrated in Table 8.5, the range in absconding and revocation rates among the jurisdictions is substantial.

The absconding rate ranges from a low of 0% in Suffolk County (NY) to a high of 18% in Dade County (FL). Many of the jurisdictions have absconding rates that cluster between 5% to 9%. However, several of the California jurisdictions have absconding rates above 12%. These are Los Angeles (13%), Orange (16%), San Diego (13%) and San Francisco (14%).

The revocation rates have a much larger range that goes from a low of 3% in Erie County (NY) to a high of 40% in Dallas and Harris counties. The confounding development with jurisdictional revocation rates is that there is a minimal statistical relationship between revocation rates and the percent of cases receiving probation in the jurisdiction. The Pearson's r for the percent of felony cases receiving probation and the revocation rates across jurisdiction is -0.01 . However, as was found with probationer arrest activity, there is a more notable statistical relationship between the probation rate per 100,000 and revocation rates (Pearson's $r = 0.27$).

There is no doubt that offensive behavior contributes to the likelihood of being revoked. However, the agency's response to that offensive behavior varies widely, especially with regard to the use of prison to punish such behavior. The lack of a statistical relationship between the percent of cases receiving probation and the revocation rate and only a moderate statistical relationship between probation rates per 100,000 and revocation rates would support the proposition that agency

Table 8.5

Percent distribution of probationers across their supervision status, by jurisdiction.

	Average Probation Term	SUPERVISION STATUS OF PROBATIONER					Total
		Still on probation	Completed probation	Absconded	Probation revoked	Other exit from probation	
Total	42 Months	31%	34%	10%	22%	4%	100%
Baltimore City	38 Months	32%	34%	8%	25%	1%	100%
Baltimore County	36 Months	29%	50%	6%	14%	1%	100%
Bexar County	69 Months	60%	6%	9%	9%	16%	100%
Cook County	28 Months	28%	52%	10%	9%	1%	100%
Dade County	24 Months	17%	47%	18%	16%	2%	100%
Dallas County	63 Months	41%	9%	8%	40%	3%	100%
Denver	35 Months	18%	56%	10%	10%	6%	100%
Erie County	59 Months	41%	52%	4%	3%	1%	100%
Franklin County	39 Months	23%	42%	9%	25%	1%	100%
Harris County	75 Months	28%	7%	8%	40%	16%	100%
Hennepin County	41 Months	30%	40%	7%	20%	3%	100%
Honolulu County	60 Months	82%	0%	7%	8%	2%	100%
Jefferson County	56 Months	56%	3%	3%	20%	19%	100%
King County	16 Months	1%	73%	13%	13%	1%	100%
Kings County	60 Months	58%	17%	10%	14%	1%	100%
Los Angeles County	38 Months	17%	37%	13%	32%	1%	100%
Maricopa County	39 Months	25%	35%	8%	29%	2%	100%
Milwaukee County	32 Months	32%	44%	4%	18%	2%	100%
Monroe County	72 Months	51%	39%	2%	6%	3%	100%
Nassau County	72 Months	41%	29%	9%	9%	11%	100%
New York County	59 Months	63%	16%	10%	11%	1%	100%
Oklahoma County	32 Months	25%	43%	9%	20%	4%	100%
Orange County	32 Months	38%	20%	16%	24%	2%	100%
Philadelphia	33 Months	13%	44%	9%	25%	9%	100%
San Bernardino County	39 Months	61%	19%	6%	12%	1%	100%
San Diego County	42 Months	41%	26%	13%	17%	3%	100%
San Francisco	37 Months	42%	25%	14%	17%	2%	100%
Santa Clara County	29 Months	28%	55%	5%	10%	2%	100%
St. Louis City	16 Months	5%	80%	1%	13%	1%	100%
St. Louis County	48 Months	53%	23%	3%	14%	6%	100%
Suffolk County	59 Months	69%	22%	0%	4%	5%	100%
Ventura County	54 Months	46%	8%	8%	28%	10%	100%

discretion, along with probationer behavior, are major determinants affecting the use of revocation to deal with problem probationers.

Arrests Lead to Revocation

Probationers who precipitate a formal disciplinary hearing by way of an arrest⁴ are much more likely to be revoked than those charged with a technical violation. Table 8.6 presents the distribution for the outcomes of the first formal disciplinary hearing by the precipitating factor behind that hearing. Fifty

seven percent of those probationers who were convicted of a new offense were revoked. A similarly high revocation rate (38%) was found for those arrested for a new offense. The revocation rate for those brought up on technical violations was only 22%.

As with felony sentencing, the local jail plays a major role in disciplining wayward probationers. Twenty percent of those probationers who were found to have had a technical violation were sent to jail, nearly all of whom remained on probation after serving

Table 8.6

Percent distribution for the outcomes of the first disciplinary hearing, by what precipitated the hearing

	OUTCOME OF FIRST DISCIPLINARY HEARING							
	Sent to Prison	Sent to Jail	Warrant issued	Reinstated with new conditions	Reinstated with no new conditions	Charges dropped	Other	Total
New Conviction	57%	18%	4%	12%	5%	1%	3%	100%
New Arrest	38%	18%	10%	13%	11%	3%	7%	100%
Absconded	12%	14%	51%	13%	7%	0%	2%	100%
Technical Violation	22%	20%	2%	22%	19%	3%	12%	100%
Other	35%	15%	0%	11%	28%	4%	7%	100%

their term. Jail was also frequently used for those who had been reconvicted or rearrested (18% each). Furthermore, more absconders were sent to jail than to prison (14% versus 12%).

The distribution of the outcomes for absconders is skewed by the fact that more than half of these persons are still at large. Because the first course of action that is to be taken against an absconder is to obtain a bench warrant, the high response to "warrant issued" (51%) is expected. Nevertheless, when these absconders return, the vast majority are disciplined within the context of probation.

Outcomes attributable to the precipitating factors for the second and third disciplinary hearings formed similar patterns (data not shown). However, the trend in second and third hearings is for increased use of prison for those brought in on technical violations. One third of those brought into their second hearing for a technical violation are sent to prison. This percent grows

to 39% for those brought into their third hearing on a technical violation.

The outcomes of the various disciplinary hearings are displayed in Table 8.7. The use of prison is a major sanction for these disciplinary proceedings, ranging from 34% for the outcomes of the first hearing to 42% for the last hearing. Nevertheless, measures short of prison form the majority of responses to troublesome probationers.

The Path to Prison

Chart 8.1 provides a synopsis of the frequency with which probationers undergo formal disciplinary hearings and incur felony arrests while under supervision. In all, only 39 out of every 100 probationers manage to remain arrest free and avoid formal disciplinary hearings.⁵ Expectedly, these probationers evidence the lowest risk score (3.3) among the various probationer segments displayed in Chart 8.1.

Table 8.7

Percent distribution for the outcomes of each of the disciplinary hearings held

	OUTCOME OF DISCIPLINARY HEARING							
	Sent to Prison	Sent to Jail	Warrant issued	Reinstated with new conditions	Reinstated with no new conditions	Charges dropped	Other	Total
First Hearing	34%	16%	19%	14%	10%	2%	5%	100%
Second Hearing	38%	20%	12%	11%	9%	2%	8%	100%
Last Hearing*	42%	18%	18%	6%	7%	1%	8%	100%

* If there were more than three hearings, the information presented here is for the last hearing held.

Data on outcome of disciplinary hearings was available in 59% of the cases.

Of those probationers who do experience disciplinary problems while under supervision, half (30 out of 61 probationers) do so by becoming involved in both new arrest activity and formal disciplinary proceedings. The other half are more likely to experience a formal disciplinary hearing (18 out of every 100 probationers) than an arrest (13 out of every 100 probationers). Those probationers who are arrested, with or without a disciplinary hearing, have a higher risk score (5.5) than those who only incur a formal disciplinary hearing (4.4).

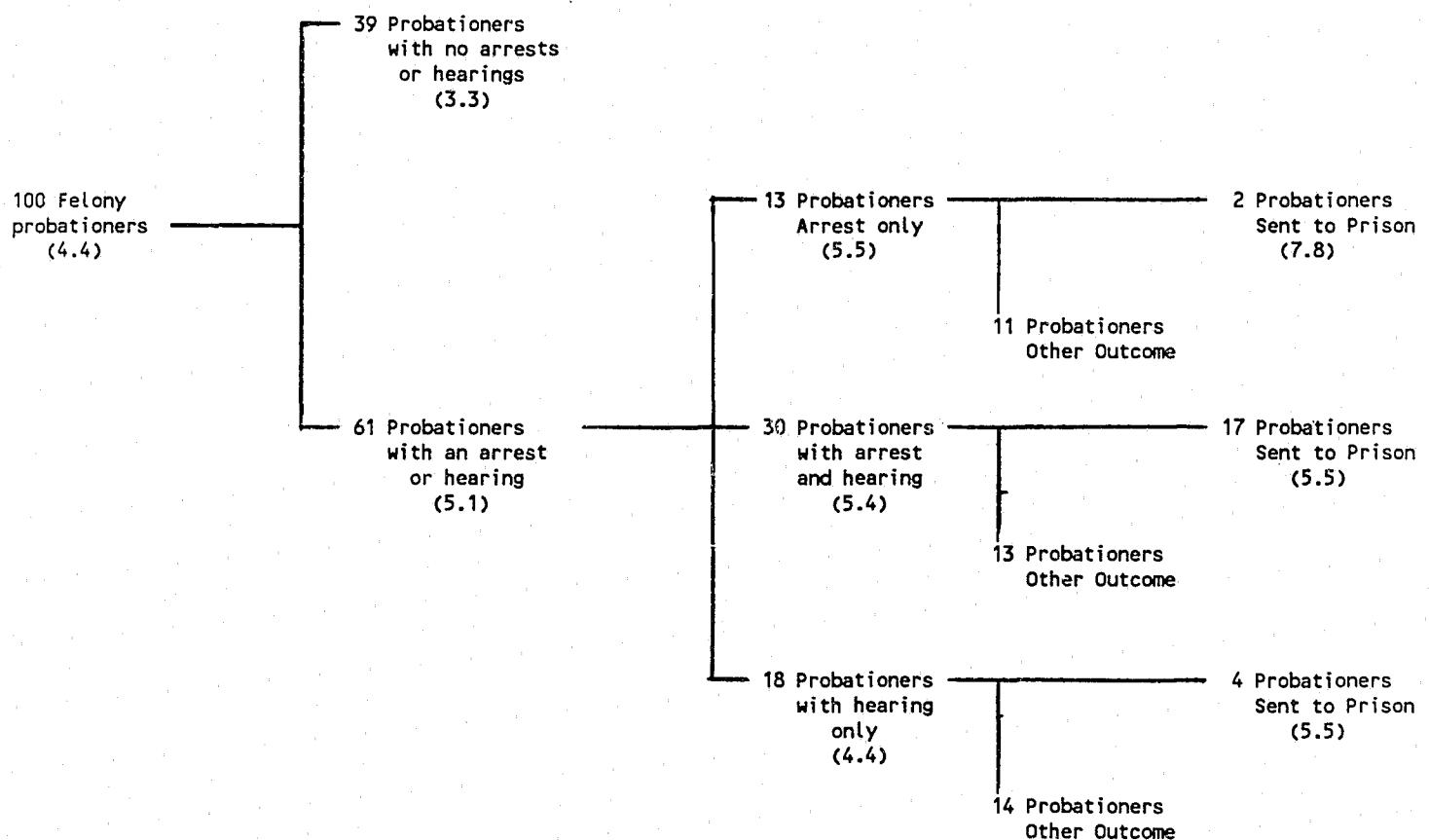
The information displayed in Chart 8.1 underscores the impact of new arrest activity in removing a person from probation. Nineteen out of the twenty three probationers are sent to prison because of a new arrest while under supervision. Technical violations of probation play a minor role in sending probationers to prison, constituting less than 20% of the probation revocations (4 out of 23).

Among the three disciplinary problem groups, those probationers with an arrest and a disciplinary hearing have the highest revocation rate. More than half of these probationers (17 out of 30) are sent to prison. Among those who have only an arrest, on the other hand, only a minority are sent to prison (2 out of 13). Finally, only 22% of the probationers who only undergo a disciplinary hearing are revoked (4 out of 18).

The information in Chart 8.1 focuses on outcomes that result in the probationer being sent to prison. There are other punitive sanctions, most notably the use of jail, that factor into the outcomes of arrests and disciplinary hearings. However, in looking at the low number of probationers sent to prison among those with only an arrest, it must be remembered that all arrests do not lead to convictions, nor do probation agencies automatically invoke the formal disciplinary process solely on the basis of an arrest.

CHART 8.1

The flow of 100 typical probationers who are eventually sent to prison and the path by which that occurs.



NOTE: The number in parentheses is the average risk score associated with each group.

Intermediate Sanctions

There is considerable energy being expended among criminal justice and probation officials to devise intermediate sanctions for probationers. The information from Chart 8.1 provides potential guidance on how to target such efforts. Although risk assessment tools can help probation officials identify prospective problem groups among probationers, these tools are not very accurate in identifying specific probationers who will get arrested or who will fail to comply with the conditions of their probation. One approach to maximize the limited resources available for intermediate sanctions would be to allow a self-selection process; i.e.; target those probationers who get arrested or undergo disciplinary hearings.

These intermediate sanctions could be used to enhance the sanctioning options or to supplant the use of prison in dealing with these problem probationers. Using intermediate sanctions to reduce the reliance on prison for disciplining probationers deserves consideration because probation revocations are becoming a larger factor in prison admissions. The increase in drug arrests is undoubtedly contributing to this development, first by bringing more persons into probation and then affecting new arrest activity by these probationers while they are under supervision.

Summary

Absconding behavior has a remarkable stability and tight range when examined across various probationer characteristics. The one variable that did uncover substantial variation with regard to absconding was the number of moves that the probationer made one year prior to being placed on probation. The absence of other relationships with absconding suggests that absconding may be a problem related to the challenge of managing large volumes of cases, especially with regard to maintaining current records on probationers' addresses. Most probation agencies do not have case management computer systems. The introduction of such systems might mitigate the absconding problem.

With regard to removing persons from probation, the analysis found that revocation rates were higher for those probationers who did not receive a PSI recommendation for probation, as well as for those probationers

who had high risk characteristics.

While the risk variables revealed substantial differences in revocation rates among the various probationer segments, they do not manifest very strong correlations that could be used to accurately identify specific persons who would fail while on probation. Risk scores need improvement and they work best from a management perspective for allocating workload.

Finally, most revocations were precipitated by renewed criminal activity while under supervision. Technical violations precipitated only a small portion of all revocations. Furthermore, most disciplinary problems posed by probationers, including arrests, were handled within the context of probation, through the use of jail and modifications to the probation sentence. Because of the large portion of probationers who get in trouble and the limited sanctioning options available within probation, consideration should be given to targeting intermediate sanctions on this probationer population.

Footnotes

1. This is underscored by the compliance information provided on behavioral and financial conditions discussed earlier.
2. Of the 33% that served their probation, one and a half percent (1.5%) were removed from probation after having been sent to jail.
3. They are: employment; drug abuse history; prior felony convictions; and number of moves.
4. Arrests here include both felony and misdemeanor offenses. However, the vast majority of arrests involve felonies.
5. The reader is advised that the numbers in Chart 8.1 is based on 96% of the probationers in the study. Previous information on disciplinary hearings was based on 76% of the probationers. For this reason there will not be a perfect match between the data shown in Chart 8.1 and the tables in Chapter 6.

CHAPTER 9 CONCLUSION

During the past decade, the number of persons sentenced to probation has steadily increased, with adult probationers nearly doubling between 1981 and 1987, from 1.24 million in 1981 to 2.24 million persons. This study has provided some statistical details on the nature of the felony workload of thirty-two urban and suburban probation agencies. In addition to providing an overview of the social, demographic and risk characteristics of the probationers, this study also revealed the wide diversity among jurisdictions in terms of the use of probation, the various conditions imposed on probationers and the handling of disciplinary problems.

Workload Characteristics

Probation has been, and will continue to be for the foreseeable future, the dominant sanction meted out in felony court. More than half of the persons sentenced for felony convictions receive probation. The increase in probation workload has mirrored the increase in the number of cases coming into felony court during the 1980's. The explosion of drug cases has fed this increase, so that the portion of probationers with drug charge convictions has been expanding. Otherwise, the basic composition for the type of person coming into probation has not changed. Judicial sentencing practices in terms of the percent of cases within major felony offense groups receiving probation have remained constant through the 1980's. The only exception to this statement involves persons convicted of drug trafficking wherein judges have decreased their use of probation in favor of prison sentences.

Indeed, the tremendous increase in drug cases coming into the criminal justice system poses a major challenge to probation in meeting its supervisory and treatment responsibilities. Probation's ability to cope with this workload increase will have direct implications for state prison systems as well. If probation is not provided the resources to meet this challenge, the prison crowding problem will be aggravated by the higher volume of probation revocation cases that will follow in the wake of a crippled system.

Sentencing Philosophies

The use of probation is affected by judicial and local governmental expectations of what probation supervision can achieve in meeting sentencing goals and the delivery of the requisite services. Sentencing goals can be punitive, rehabilitative or deterrence oriented. Frequently, sentencing goals tend not to follow one orientation to the exclusion of others, but rather are an amalgam of different and even competing philosophies. These competing philosophies surface in the findings in this study, for example, the high use of jail in conjunction with probation.

Probation emerged from a rehabilitative philosophy at the end of the Nineteenth Century. Rehabilitation theory has emphasized the need to reform individuals, so as to turn them away from a life of crime. Under the rehabilitative model, probation officers have assumed the role of social workers, whose efforts were directed at identifying probationer shortcomings and delivering services to rectify those shortcomings. The wide array of treatment and counseling services found in all of the participating jurisdictions in this report illustrated the continuing influence of rehabilitative philosophy on probation.

The rehabilitative philosophy undergirding probation has recently been challenged, however. During the 1980's, there has been an emphasis on deterring and punishing probationers. The increased awareness of the plight of victims of crime has fueled a legislative and judicial movement to enhance punishment in sentencing. In addition, some proponents argue that punishment should be included in rehabilitative programs to foster the recognition that criminal behavior has a price. Others have argued that public safety concerns require more frequent use of monitoring and accountability programs for probationers.

House arrest, boot camps and intensive supervision programs have been the most graphic examples of this new focus. The heavy reliance on jail, in conjunction with probation,

constitutes a major punitive aspect of probation. The use of fines, supervision fees, restitution and other financial conditions also reflect the punishment oriented philosophy which has affected probation during the 1980's.

These different philosophies influence the objectives of probation agencies in dealing with probationers as well as the type of programming that the agencies provide. Probationers with a drug abuse history provide a useful backdrop for illustrating these differences. A rehabilitative approach focuses on how programs can help probationers overcome their drug abuse problem and so the delivery of drug treatment services are provided. A punitive approach would adopt a monitoring strategy and so drug testing programs would be provided. Reflecting this philosophical amalgam of sentencing goals, most jurisdictions operate both programs.

Program Resources

Sentencing philosophy has to be backed up with resources. The information that was presented on the various behavioral conditions imposed on probationers reflected not only on the philosophical goals of sentencing, but also on the resources that were made available to meet those goals. There may be philosophical support for drug treatment or drug testing, but if the resources are not available to fund such programs, such programming is impossible.

Dealing with Risk

The data in this study demonstrated the relationships between risk factors and probation outcomes. These relationships are useful for general classifications, but they are particularly effective for predicting outcomes on a case specific basis. There is an extensive use of presentence investigations and these reports provide key information for classifying probationers. The probation officers's recommendation on whether or not to grant probation also shows notable differences in the percent of probationers who are revoked. These differences are not great, however.

The analysis of the relationship between risk factors and case supervision levels revealed that the assignment to case supervision level closely followed the risk that probationers posed based on their profile. For example, probationers with risk indicators such as low

employment level or prior drug use were generally assigned to higher levels of supervision.

Risk factors can contribute to the development of concrete performance measures for probationers within the various supervision levels. These performance measures could track progress, controlling for the known risk factors of probationers. The use and interpretation of these performance measures would no doubt vary based on the dominant philosophy guiding the probation agency.

Probationer Performance

The findings of this study documented how probationers functioned during their term. The data outlined aggregate risks taken by society in awarding probation to different groups of felons. Several aspects of probation were examined to outline how risk factors interacted with probationary decisions ranging from presentence investigation to outcomes of probation.

Probationers with high risk characteristics did not do as well on probation as other probationers. The high risk probationers had problems in meeting the conditions of their probation, incurred a higher incidence of formal disciplinary hearings and were arrested more frequently. The vast majority of probationers, however, did not pose a risk to the physical safety of the community. Most probationers did not get arrested for a felony while under supervision; and, when arrested, probationer arrest activity mostly involved property or public order (mostly drugs) offenses. Arrests for violent offenses were infrequent.

Probationer Compliance

Probationer accountability also requires greater policy scrutiny. The failure of a substantial portion of probationers to comply with the conditions of their probation, including some of those who completed their term, undermines the justice system's goals and credibility. Inquiries about probationer compliance need to focus as much on judicial and probation agency practices as on the probationer. Realistic conditions that are tied to the strengths and weakness of the probationer have a better chance of being met than those that ignore the probationers' circumstances. Agencies also need to know

whether their programs, such as drug treatment, work as intended. Drug programs that were designed for opiate abusers may not necessarily work on "crack" abusers. Realistic sanctions also need to be developed to prod recalcitrant probationers into compliance.

Community Probation

This study also revealed that a majority of probationers are black and Hispanic. There are several implications of this finding for meeting rehabilitative goals. How well does probation cope with the social diversity of these minority groups? To what extent can probation develop better linkages with the black and Hispanic communities from which many of its probationers reside? How relevant is the law enforcement experience with community policing in providing guidance to probation officials in such community outreach efforts?

Community resources can do much to advance a probation agency's objectives. Community resources need to be identified and then recruited to assist probation in its work. There also has to be an assessment of the gaps that may exist in community resources and strategies developed to fill those gaps. The implementation of such strategies may be beyond probation's capacities, but that does not preclude probation from participating in efforts get such strategic thinking started.

APPENDIX A

METHODOLOGY

Background

This report represented a second effort to collect and present statistical data on felony probation cases in selected urban and suburban jurisdictions.¹ The scope of this study was broader than the initial effort undertaken with felons sentenced to probation in 1983. This report examined the full range of felons sentenced to probation in 1986. The first report limited its inquiry to felons sentenced from among seven offense categories.² The number of jurisdictions participating in this study was double that of the previous effort (32 versus 16 jurisdictions). The number of unweighted cases examined in this study grew by a factor of four, from 3,000 cases for the 1983 study to over 12,000 cases for the current study. The combination of more frequent sampling and more cases generated an eight fold increase in the number of weighted cases from 10,400 in the 1983 study to 81,900 for this effort.

Sampling

The cases that were examined in this report built upon data collected by the National Association of Criminal Justice Planners (NACJP) for the National Judicial Reporting Program (NJRP), which is a statistical study of felony sentencing outcomes. The NACJP was able to construct a representative sample of felony probationers from these jurisdictions because of the NJRP sentencing data base. In collecting data on 1986 sentences, the NACJP profiled all sentences meted out in each of the participating jurisdictions for that year. This profile then enabled the NACJP to draw a stratified random sample of these sentences, based on the top conviction offense. The rate of sampling also varied by jurisdiction, where the extent of sampling was affected by the volume of cases within each offense group. After the sample was drawn, detailed information on convicted offenders and their sentences was drawn, including those who received probation.

Table A.1 displays the unweighted and weighted case counts by jurisdiction and by conviction offense. As is evident from

Table A.1

The listing of unweighted weighted cases and average weights by jurisdiction and conviction offense.

	Number of Unweighted Cases	Number of Weighted Cases	Average Weight
Total	12,370	81,931	6.6
Baltimore City	450	1,660	3.7
Baltimore County	391	1,065	2.7
Bexar County	433	2,029	4.7
Cook County	569	6,236	11.0
Dade County	315	2,496	7.9
Dallas County	495	3,522	7.1
Denver	236	594	2.5
Erie County	220	378	1.7
Franklin County	230	861	3.7
Harris County	478	4,169	8.7
Hennepin County	451	1,264	2.8
Honolulu County	320	701	2.2
Jefferson County	297	603	2.0
King County	416	2,355	5.7
Kings County	439	2,691	6.3
Los Angeles County	1,251	18,741	15.0
Maricopa County	453	5,305	11.7
Milwaukee County	321	1,611	5.0
Monroe County	200	338	1.7
Nassau County	197	694	3.5
New York County	316	2,581	8.2
Oklahoma County	333	2,912	8.7
Orange County	436	2,204	5.1
Philadelphia	361	2,046	5.7
San Bernardino Co.	295	770	2.6
San Diego County	497	4,561	9.2
San Francisco	359	1,690	4.7
Santa Clara County	447	4,024	9.0
St. Louis City	246	952	3.9
St. Louis County	334	1,037	3.1
Suffolk County	323	1,368	4.2
Ventura County	270	473	1.8
CONVICTION OFFENSE			
Total	12,370	81,931	6.6
Homicide	185	269	1.5
Rape	866	1,427	1.6
Robbery	1,181	4,113	3.5
Aggravated Assault	1,376	4,502	3.3
Burglary	1,939	10,823	5.6
Larceny	1,877	13,123	7.0
Drug Trafficking	2,213	16,083	7.3
Other	2,733	31,591	11.6

this table, the sampling rates varied by jurisdiction and conviction offense. The study's goal was to obtain at least 50 unweighted cases for each type of crime in each of the jurisdictions wherever possible. Sampled cases were weighted by the inverse of their sampling rate. For example, in Baltimore City, every third robbery probation case was selected for analysis. Each of these robbery cases was then weighted by a factor of three in order to provide estimates on the universe of robbery probation cases there. The average weights employed in this study ranged from 2 (a 50% sample) in Monroe County to a high of 15 (a 7% sample) in Los Angeles County. The average weight was 6.6 (a 15% sample).

Sampling was used sparingly with violent offenses, but extensively with property and public order offenses. As can be observed in Table A.1, the average weights were low for the crimes of homicide, rape, robbery and aggravated assault. The average weight for homicide, for example, was only 1.5 (a 67% sample). These low weights indicated a low reliance on sampling because of the relatively small number of probation cases attributable to these offense categories. The weighing factors become larger, however, for the property and public order offenses of burglary, larceny, drug trafficking and "Other" felonies. "Other" felonies had the largest average weight (11.6, which represented a 9% sample).

Standard Error

All of the tables presented in this report were based on weighted distributions. The distributions for the rate at which behavioral conditions are imposed by jurisdiction and conviction offense are used to illustrate the standard errors of the estimates presented in this report.

The "Weighted Count" column in Table A.2 should be used in conjunction with the "Number of Weighted Cases" column in Table A.1. The "Percent" column in Table A.2 should be used in conjunction with Tables 4.1 (by jurisdiction) and 4.2 (by conviction offense).

Table A.3 provides standard error percents for financial conditions and felony arrest by the probationer's conviction offense. The column, "Financial Condition", should be used in conjunction with Table 5.1 and the

column, "Felony Arrests", should be used in conjunction with Table 7.7.

Table A.2

The listing of standard errors for weighted counts and percents for the prevalence of behavioral conditions, by jurisdiction and conviction offense.

	Standard Error	
	Weighted Count	Percent
Total	399.0	0.6%
Baltimore City	27.1	3.2%
Baltimore County	18.2	2.8%
Bexar County	43.6	2.5%
Cook County	102.8	5.5%
Dade County	50.1	3.3%
Dallas County	29.9	2.4%
Denver	7.3	3.9%
Erie County	10.4	4.8%
Franklin County	28.0	3.8%
Harris County	69.2	2.4%
Hennepin County	24.5	2.6%
Honolulu County	3.5	1.9%
Jefferson County	13.1	3.2%
King County	39.8	2.7%
Kings County	65.3	2.3%
Los Angeles County	277.1	2.0%
Maricopa County	113.7	2.6%
Milwaukee County	22.3	2.6%
Monroe County	0.0	2.0%
Nassau County	20.6	3.4%
New York County	71.7	2.8%
Oklahoma County	31.3	5.0%
Orange County	102.9	2.0%
Philadelphia	7.1	2.5%
San Bernardino County	16.2	2.8%
San Diego County	74.7	2.5%
San Francisco	22.7	2.9%
Santa Clara County	116.8	3.3%
St. Louis City	34.1	4.6%
St. Louis County	21.8	3.0%
Suffolk County	29.8	3.1%
Ventura County	3.2	1.9%
CONVICTION OFFENSE		
Total	399.0	0.6%
Homicide	13.3	3.4%
Rape	23.5	1.7%
Robbery	61.8	1.6%
Aggravated Assault	67.7	1.7%
Burglary	117.8	1.5%
Larceny	128.1	1.5%
Drug Trafficking	189.4	1.5%
Other	289.8	1.2%

Table A.3

The listing of the percent standard errors for the incidence of financial conditions and felony arrests by conviction offense.

	Financial Conditions	Felony Arrests
Total	0.4%	0.6%
Homicide	5.4%	2.5%
Rape	0.9%	1.5%
Robbery	1.4%	1.7%
Aggravated Assault	1.3%	1.7%
Burglary	1.0%	1.4%
Larceny	0.7%	1.4%
Drug Traffick	1.0%	1.4%
Other felony	0.7%	1.1%

Offense Classification

The penal codes from each of the participating jurisdictions provided the basis for defining the eight offense groups analyzed in this study; i.e., homicide, rape, robbery, aggravated assault, burglary, larceny, drug trafficking and other felonies. The NJRP program has devised cross-walks to guide the classification of penal code citations into these eight felony offense categories. Persons who wish to examine the specific cross-walks used in each jurisdiction should contact the national office of the NACJP as to availability and costs associated in receiving this documentation. These offense categories are defined as follows:

Homicide--This crime was defined as wrongful death with intent, which included murder and voluntary manslaughter. Attempted homicides were classified as aggravated assaults.

Rape--This crime was defined as the forcible sexual penetration of a person, including the use of foreign objects. Consequently, this definition did not embrace statutory rape (which was classified as an "Other Felony"). This crime category included homosexual rape as well as heterosexual rape. For purposes of this study, persons found guilty of attempted rape would remain in the rape category.

Robbery--This crime was defined as the use of force (with or without a weapon) to deprive another of his/her property.

Aggravated Assault--This crime was defined as the infliction of injury or the threat to inflict injury on another. As noted above, attempted homicide is included under this crime category. The penal codes tend to differentiate between felony and misdemeanor assault based on the extent of injury and the nature of the threat. Felony assault is usually defined as aggravated assault and involves serious physical injury and/or weapon usage. A number of statutes elevate simple (misdemeanor) assaults against police officers, fire fighters, and other public officials to felony assaults and these are included in the study. On the other hand, some states treat the threat to use a weapon as a misdemeanor, so those crimes were not included in the study.

Burglary--This crime was defined as the unlawful entering of a structure. Some crimes defined in the penal code as burglaries discuss contact between the burglar and the victim or the presence of a weapon. While these types of burglary approximate the definition of robbery, there was no way to identify those cases where there was a confrontation with the victim. So these cases were coded as a special category within burglary. Penal code provisions excluded from this crime category in the study dealt with the possession of burglar tools and criminal trespass. The study also sought to exclude those instances where the penal codes defined break-ins on such items as coin boxes, cars, boats, etc. as burglaries.

Larceny--The study sought to limit the definition to the

unlawful taking of property and to exclude such circumstances as extortion, fraud, or deception. These latter offenses were coded under "Other" felonies. The value threshold for felony theft varies from \$20 in Oklahoma to \$1,000 in Pennsylvania. It should also be noted that theft here includes motor vehicle theft. Finally, a number of codes define certain types of theft to be felony without regard to the value taken; i.e. theft from the person (pocket picking).

Drug Trafficking--This crime was defined to include the transportation, manufacture (including growing), distribution, and selling of controlled substances as well as those legislative provisions that specified possession with intent to transport, manufacture, distribute or sell. Straight possession was not included in this crime category. It should be noted that codes vary on the threshold weight in distinguishing between straight possession and possession with intent to sell.

Other--This offense category included all other felony offenses not previously covered. There were subcodes in this category that enabled the study to distinguish drug possession offenses from other offenses.

The percent distribution of these offense categories are presented in Table A.4 for each of the 32 jurisdictions. A review of that table reveals substantial variation among the counties. For example, the percent of probationers convicted of robbery is very high in the two New York City counties (Kings at 24% and New York at 19%). These percent are four to five times higher than the 32 county average (5%).

Exposure to Probation

The methodology employed here was that of a cohort study, composed of persons

sentenced to probation in 1986. The probation cases under analysis in this study experienced differential exposure time to probationary supervision. This differential exposure time was primarily attributable to the fact that the bulk of the cases came from sentences meted out over a 12 month time span within calendar year 1986 and that the bulk of the questionnaires were completed between July and September of 1989. Consequently, the maximum exposure that a case could have had to probation was 44 months (January 1986 to September 1989) while the minimum exposure could have been 29 months (December, 1986 to June, 1989).

The exposure time on arrest activity was several months longer. The criminal histories could not be requested until the probation questionnaires were returned to the NACJP. The questionnaires contained the probationer's state arrest identification number, which was used in making the rap sheet request. Arrest activity up to the time of the request was sought. Rap sheets filtered into the NACJP between December, 1989 and June, 1990.

This differential exposure to probation clearly affected this study's analysis of such considerations as time to revocation, but had no impact on such considerations as the types of conditions imposed on the probationer. The tradeoff made in this study was to sacrifice a measure of completeness on a person's total experience with probation in order to obtain timely information on major aspects of probation supervision.

Data Sources

The information on these probation cases was basically gathered by hand. Only in a couple of jurisdictions, such as Baltimore, was there the ability to generate some of the data requested from computerized data bases. Generally, the data collection effort required a visual review of the probation file and recording information from that file onto the questionnaire. In some instances, such as Los Angeles County, probation officers in the form of the Probation Department's Audit Team collected the data. In many of the jurisdictions college students were hired to review the files and code the data.

A booklet that contained a detailed explanation of the information being sought

Table A.4
Percent distribution of weighted sentences to probation, by conviction offense and jurisdiction, 1986.

Jurisdiction	Homicide	Rape	Robbery	Aggravated assault	Burglary	Larceny	Drug trafficking	Other felony
Total cases	b	2%	5%	5%	13%	16%	20%	39%
Baltimore City	1%	2%	8%	13%	13%	8%	46%	8%
Baltimore County	0%	1%	2%	12%	13%	45%	13%	15%
Bexar County	1%	2%	3%	6%	16%	29%	4%	40%
Cook County	b	1%	5%	4%	19%	15%	14%	41%
Dade County	1%	b	3%	8%	8%	30%	9%	40%
Dallas County	1%	2%	5%	3%	20%	26%	5%	38%
Denver	b	1%	2%	4%	14%	6%	10%	63%
Erie County	0%	1%	4%	5%	15%	6%	6%	63%
Franklin County	0%	0%	4%	5%	10%	21%	11%	48%
Harris County	b	4%	3%	5%	21%	19%	8%	41%
Hennepin County	b	2%	5%	5%	14%	27%	2%	45%
Honolulu County	b	2%	3%	3%	11%	27%	15%	39%
Jefferson County	1%	1%	4%	7%	13%	11%	23%	40%
King County	0%	b	4%	7%	20%	21%	8%	41%
Kings County	b	b	24%	4%	12%	4%	21%	35%
Los Angeles County	b	2%	5%	5%	10%	9%	36%	33%
Maricopa County	b	b	2%	7%	7%	23%	13%	47%
Milwaukee County	1%	7%	7%	5%	22%	17%	16%	24%
Monroe County	0%	1%	4%	6%	7%	12%	9%	61%
Nassau County	0%	0%	8%	5%	21%	14%	12%	39%
New York County	0%	b	19%	4%	6%	12%	28%	31%
Oklahoma County	b	b	1%	2%	16%	11%	10%	58%
Orange County	b	3%	4%	3%	15%	11%	37%	27%
Philadelphia	b	2%	6%	6%	12%	17%	28%	29%
San Bernardino County	1%	8%	2%	6%	12%	10%	24%	38%
San Diego County	b	3%	2%	5%	13%	18%	11%	48%
San Francisco	1%	2%	5%	12%	8%	9%	33%	31%
Santa Clara County	b	2%	2%	8%	10%	16%	13%	50%
St. Louis City	b	1%	3%	4%	14%	20%	3%	56%
St. Louis County	0%	4%	2%	7%	13%	26%	10%	37%
Suffolk County	0%	b	5%	3%	22%	12%	10%	47%
Ventura County	0%	7%	4%	4%	10%	19%	21%	35%

Note: b indicates less than 0.5%.

was provided to all data collectors. The format of the questionnaire tended to minimize differences in the data coding between those questionnaires being completed by probation officers and the part time help. Indeed, the big difference between the probation officers and the part time help was the speed, not necessarily the accuracy, in completing the questionnaires. Knowledge of how information was organized in the probation files generally placed probation agency employees at an advantage over the students in the speed with which they could collect the data. Persons desiring a copy of this coding instruction booklet should contact the NACJP regarding availability and costs.

Perhaps the biggest problem in terms

of the quality of the data resided with the probation files themselves. The coders, regardless of who they were, could only record that information that was in the official file. As is the case in any record system that relies on narrative, the level of detail and consistency of the information in the probation file can vary. While that is a real limitation to the data here, the information in these official probation files, nonetheless, represent a valuable resource for obtaining a picture of how probation functions.

Questionnaire

The questionnaire (see Appendix B) used in this study incorporated much of the previous instrument that included questions on such items as the types of behavioral and

financial conditions imposed, compliance with those conditions, and the frequency with which formal disciplinary hearings had to be invoked. There were also some additional items from the previous questionnaire. For example, the study included a series of questions that dealt with risk assessment, such as prior felony convictions. Standardized responses were generally available to these questions because nearly all of the participating agencies employed the risk assessment approach disseminated by the National Institute of Corrections over the past several years.

The questionnaire was designed to pick up information as it was found in the probation records and did not attempt to impose specific controls on selected items. For example, the question on the probationer's drug abuse history was answered based on how each individual agency approaches this question (generally the probation officer asks the probationer). There was no attempt to impose a requirement that the answer be based on some independent source, such as a urine analysis. Similarly, answers to questions on probationer compliance with behavioral conditions reflected each agency's definition of progress and completion of these conditions.

Arrest Data

The manner in which arrest information was collected underwent a change for the 1986 cohort. This effort gathered arrest information on each of the probationers not only from information in the probation files, but also from official arrest files in state criminal history repositories. This change was made to make the rearrest component of the study consistent with the approach used by Joan Petersilia of the Rand Corporation in her 1985 study of probation in Los Angeles and Alameda counties.³

The difference in the arrest rates for probationers under supervision found in the Rand study and in the original NACJP study was substantial. Rand reported a much higher arrest rate than the NACJP (65% versus 21%). This divergence in the arrest rates between the two reports raised concern about the validity of the NACJP findings at BJS. To address the validity concerns raised with the earlier effort, this study replicated the Rand approach to collecting arrest information on the probationers; i.e., arrest data were compiled based on a review of each probationer's official

arrest file maintained at the state's criminal history repository.

The only jurisdictions where the state rap sheet was not used occurred in St. Louis City and County. The State of Missouri will only make available arrest information for those cases that resulted in a finding of guilt. This was too restrictive for the purposes of this study, so arrest information was obtained through the REGIS arrest data base which covers these two jurisdictions. Three jurisdictions required additional follow up in local police records. These jurisdictions were: Cook; Denver; and Harris counties. Most of the arrest data were coded from copies of the rap sheets themselves onto a one page data collection form (see Appendix C). The NJRP cross-walks were used to code the penal code or other crime codes into the standardized offense categories previously discussed.

Arrest data in an electronic format was provided by California, Minnesota, New York and Texas. The California and Minnesota data were subjected to data processing programs used by the Bureau of Justice Statistics for other studies it has conducted on offender arrest activity. New York and Texas provided extract data from their main criminal history repository data bases.

Overall arrest information was obtained on 88% of the probationers.

Locating Cases

A major challenge in undertaking a cohort methodology study within the criminal justice system was to connect the selected cases from the sentencing stage to the probation agency. The sentencing data were principally drawn from judicial or prosecutorial record systems. Probation records are generally maintained in record systems that are totally distinct from those sentencing records. In many instances the only common identifier between the various record systems was the probationer's name.

Because the study utilized operational data bases that undergo varying degrees of verification edits, the study was also designed to confirm that the selected cases did receive probation. The confirmation process was not as straightforward as it might appear. Confirmation involved checking incorrect information in the data base as well as

reconciling agency terminology and practice to the study's definition of probation. For example, the study considered "bench" or "unsupervised" probation as a valid probation sentence. Because such cases may not show up as a formal record with the probation agency, some probation agencies would not consider such cases as assigned to probation. To maintain consistency across the participating jurisdictions, unsupervised probation cases were retained in the study as valid probation sentences.

There was a high rate of confirmation that the selected cases received probation. Ninety-six percent (96%) of the cases were confirmed as having received probation. Most of the cases that were dropped from the study were found either to have been picked up on a probation disciplinary hearing or to have been convicted of a misdemeanor, rather than a felony. Among the conviction offense categories, homicide evidenced the largest problem with invalid probation sentences (8%), while rape had the smallest (1%).

The problem of invalid probation sentences was pretty much isolated to four of the 32 participating jurisdictions: Baltimore City and County, Cook, and Jefferson Counties. Maryland has no clear legislative distinction between felonies and misdemeanors, especially when "common law" is cited as the conviction offense. Over one third of the cases from Baltimore City and County were dropped from the analysis because the conviction offense was found to be a misdemeanor. There was also a problem with misdemeanor convictions in Jefferson County. The sentencing data came from the prosecutor's computer system. There was a tendency for the records to show the indictment charge rather than the conviction charge. Fifteen percent (15%) of the probation cases were dropped in Jefferson County because of this problem. In Cook County, on the other hand, the computer program that generated the 1986 sentencing data included probation revocation hearings. Because the study was to look only at persons sentenced in 1986, these probation revocation cases (20%) were dropped from the study.⁴

Probation agencies tended to maintain sparse information not only on persons sentenced to "unsupervised" probation (6% of the cases in the study), but also on probationers who were transferred to other jurisdictions (7%

of all cases).

A more substantial obstacle in obtaining data presented itself when it came to locating the actual file on the selected probationers. Of those cases that remained in the study, data collectors were unable to view 20% of the files. This statistic must be viewed in the reality of the operational environment in which probation agencies operate; i.e., there is not much in the way of computer assisted case management. There tends to be but one manual file that follows probationers as they move around or as they are assigned to different probation officers.

This difficulty of locating files was a sizeable problem in the following jurisdictions: Bexar County (26%); Erie County (59%); Kings County (NY, 25%); Los Angeles County (40%); New York County (35%); Oklahoma County (51%); and St. Louis City (28%). Efforts were made to confirm that these cases did indeed receive probation. For example, in Los Angeles County, each of the cases that could not be found by the probation agency was checked against court files. This check confirmed the probation sentence and also provided the case status of the probationer (active, served, absconded or revoked). In most of the other jurisdictions, the probation sentence was confirmed either by the probation agency or by a check of the person's arrest file.

The inability to locate some files and the sparsity of information contained in others precluded the study from obtaining detailed information about all probationers and the various aspects of their experience while under supervision. Each of the tables in this report indicate the extent of missing data as the result of these developments.

Use of the Mean as the Average

This report used means as the measure of central tendency for averages presented on such items as probation terms, exposure to probation, financial assessments, etc.

Footnotes

1. The first report, *A Sentencing Postscript: Felony Probationers in the Community*, was written in 1986 and examined persons who were sentenced to probation in 1983. The report was published by the NACJP and copies are available from the NACJP.

2. The seven offense categories were: homicide, rape, robbery, aggravated assault, burglary, larceny, and drug

trafficking.

3. See **Granting Felons Probation: Public Risks and Alternatives**, by Joan Petersilia, et al., RAND Corporation, Santa Monica, CA, 1985.

4. This information was also used to modify the computer program so as to generate valid data bases for subsequent runs on felony sentencing practices in Cook County. Such record checks were one of the side benefits of the probation study as it afforded the NACJP the opportunity to validate the data bases it was working with for its sentencing profile research.

APPENDIX B

NACJP/BJS PROBATIONER QUESTIONNAIRE

LOS ANGELES PROBATION DEPARTMENT Questions:

(LABEL HERE)

A. RISK ASSESSMENT SCORE: _____

B. SPECIAL PROGRAMS (CHECK ALL THAT APPLY):

HRO NTU BIG MAC CHILD THREAT

AMSC ISP ESP GANG GANG ESP

A. PROBATIONER'S CASE SUPERVISION STATUS

1. Probationer's State Arrest Identification Number: _____

2. Month this questionnaire is being filled out: _____, 1989.

3. Under what type of supervision was the probationer placed? _____
 Unsupervised Probation
 Supervised probation
 Unable to find file

4. Is the person still under active probation supervision? Yes No

5. If the response to item 4 is "no," when did the person leave probation supervision and under what circumstances?

Date left probation: _____ Mo. Day Yr.	Reason for leaving probation (check one):	<input type="checkbox"/> Served probation term <input type="checkbox"/> Probationer died <input type="checkbox"/> Probationer absconded <input type="checkbox"/> Probationer sent to prison <input type="checkbox"/> Other (describe at left)
---	--	---

6. Was the probationer transferred to another jurisdiction for supervision?

No Yes, in State Yes, out of State (Please Identify State: _____)

7. Was a presentence investigation report performed on this probationer before sentencing occurred?

No Yes If yes, did the PSI recommend probation? No Yes

8. Date on which the person began his/her probation term: _____
Mo. Day Yr.

9. Please provide your agency's supervision level for this probationer at his/her entry into probation and the current/last supervision level

Initial Supervision level = _____ Current/Last Supervision Level = _____
(Enter N.A. if supervision level is not known or agency does not use them)

10. If a jail term was imposed at the time of sentencing (includes work release), do the probation records show when the probationer began and ended his/her jail term?

Dates below Dates not available Not applicable, no jail term imposed

Began: _____ Ended: _____
Mo. Day Yr. Mo. Day Yr.

11. What was the approximate case load size of the Probation Officer who had to supervise this case at the time the probationer was sentenced to probation:

Probationers Information is not readily available

12. Please indicate the number of Probation Officers that this probationer has had during this current period of supervision: _____ P.O.'s _____ Information is not readily available

13. On how many different occasions was this probationer arrested for a FELONY offense during this current period of supervision:

= Number of Felony Arrests (please give dates of arrest, if available, below)

B. PROBATIONER BACKGROUND INFORMATION

1. Race of probationer: White Black Indian Asian Other Not Ascertained

2. Ethnicity of probationer: Hispanic Non-Hispanic Not Ascertained

3. What was the percentage of time that this probationer was employed in the twelve months prior to the presentence investigation or Intake:

60% or more 40% to 59% Under 40% Not Ascertained

4. If employed and if available, what was the probationer's wage at Intake?

\$ _____ per _____ Information not readily available

5. Please indicate the probationer's marital status at the time of sentencing/Intake:

Married Divorced Single Not Ascertained

6. Please indicate the educational level attained by the probationer at the time of sentencing/Intake:

Grade School Some High School High School Diploma (include GED) Some College College Degree Not Ascertained

7. Please indicate the number of address changes that the probationer has made in the twelve months prior to Intake:

None One Two or More Not Ascertained

8. Probationer's drug abuse history (does not include alcohol):

No interference with functioning Occassional abuse Frequent abuse Not Ascertained

9. Number of Prior Felony Convictions

None One Two or more Not Ascertained

C. CONDITIONS OF PROBATION

1. Please fill in the appropriate information on each of the financial conditions (enumerated below) imposed on the probationer.

	Condition Imposed by Court			If financial condition was imposed how much:		IF REVISED,	IF PAY PLAN, is
	Yes	No	Don't Know	Assessed	Paid to Date	Revised Amount	schedule being met
Fine				\$	\$	\$	
Court fees							
Public Defender fees							
Probation costs (see note)							
Monetary restitution to the victim							
Victim compensation fund							
All other assessments							

NOTE: Probation costs are usually expressed as so much money per month. You may use the monthly costs figure in the "Was assessed" column. If you do so, please so designate, e.g. \$10/month.

2. Please fill in the appropriate information on each of the special conditions IF imposed by the COURT.

	Condition Imposed by Court			IF CONDITION IMPOSED, CHECK APPROPRIATE CELL			Length of Time that Condition is to run
	Yes	No	Has satisfied the condition	Making progress on satisfying	Unable to meet condition satisfactorily		
Community residential placement							
Participate in Alcohol treatment							
Participate in Drug treatment							
Submit to Drug Testing							
Perform community/public service							See #C4
Undergo mental health counseling							
Submit to House Arrest program							
Day Treatment							

NOTE: Community residential placement includes placements that provide drug or alcohol treatment. Mark alcohol and drug treatment as well if such treatment is to be provided to the probationer.

3. Please describe how house arrest is monitored: Electronically _____ Random phone calls _____ Other _____

4. If the person has to perform some type of community/public service:

How many hours must the person perform? _____ hours
How many hours performed to date? _____ hours

D. FORMAL DISCIPLINARY HEARINGS

This section deals with the probationer's failure to meet the conditions of his/her probation that resulted in a formal hearing before a judge or hearing officer. This section permits the recording of information on up to three formal hearings. If the probationer has more than three hearings, please enter the information for the first, second and last hearing.

1. During the course of the person's probation supervision, how many formal hearings were initiated against him/her? _____ Hearings

If there were one or more hearings, please complete items 2 to 6 below.

	First Hearing	Second Hearing	IF MORE THAN 2 Last Hearing
2. Date hearing was held:.....	Mo/Day/Yr	Mo/Day/Yr	Mo/Day/Yr

3. Date the violation and/ or arrest occurred:	Mo/Day/Yr	Mo/Day/Yr	Mo/Day/Yr

4. What precipitated the hearing (check all that apply):	First Hearing	Second Hearing	IF MORE THAN 2 Last Hearing
a. New conviction while on probation			
b. A new arrest while on probation			
c. Probationer absconded			
d. A technical violation of probation .			
e. Other			

NOTE: IF TECHNICAL VIOLATION OR OTHER IS CHECKED, PLEASE BRIEFLY DESCRIBE IN RIGHT MARGIN

5. If a new arrest, type of offense(s) involved:	First Hearing	Second Hearing	Last Hearing
a. Felony			
b. Misdemeanor.....			
c. Not ascertained			

6. What was the outcome of the hearing (please check all that apply):	First Hearing	Second Hearing	Last Hearing
a. Probationer sent to prison			
b. Probationer sent to jail			
c. Warrant issued			
d. Probation reinstated with new conditions (incl add'l probation)...			
e. Probation reinstated with <u>no</u> new conditions			
f. Charges not sustained			
g. Other (describe in right margin)....			

APPENDIX C

NACJP/BJS

ARREST INFORMATION FORM

F.B.I. ARREST NUMBER: _____

1. How many **FELONY** arrests did this person have while under supervision? _____
If one or more, please fill out the items in the grid below.

How many FELONY arrests did this person have PRIOR to this probation sentence? If one or more, complete the grid below.

FELONY ARRESTS WHILE UNDER SUPERVISION

	FIRST ARREST	SECOND ARREST	THIRD/LAST ARREST
2. Date of Arrest			
3. Felony offense(s) (Enter up to 3 of the most serious Penal Code Cites)			
4. Disposition			
Arrest disposed			
Action pending			
Not Ascertained			
5. Date of Disposition			
6. Top Disposition Charge (Enter MISD if Misdemeanor)			
7. Type of Disposition			
Guilty			
Not Guilty			
Charges Dropped			
Other			
Not Ascertained			
8. IF GUILTY, Sentence Imposed			
Prison			
Jail.....			
Jail & Probation			
Probation only			
Other			
Not Ascertained			
9. If Prison/Jail, TERM:			
10. IF CASE DROPPED OR NOT GUILTY, was the matter referred to the Probation Agency for Disciplinary Action (Yes/No)			

FELONY ARRESTS SINCE 1981 PRIOR TO
THE SENTENCE DATE SHOWN ON THE LABEL