

**A SENTENCING POSTSCRIPT:  
FELONY PROBATIONERS UNDER  
SUPERVISION IN THE COMMUNITY**

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**The National Association of Criminal Justice Planners**

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A SENTENCING POSTSCRIPT:

FELONY PROBATIONERS UNDER SUPERVISION

IN THE COMMUNITY

by

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BJS/NACJP  
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- Kane County (IL), 16th Judicial Circuit, Adult Court Services
- Lancaster County (NE) Department of Adult Probation
- Los Angeles County (CA) Department of Probation
- Lucas County (OH) Department of Probation
- Maricopa County (AZ) Department of Probation
- Riverside County (CA) Department of Probation

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## Chapter 1: OVERVIEW OF THE STUDY

### 1.1 Introduction

In the Bureau of Justice Statistics' Report to the Nation on Crime and Justice: The Data, information is provided which shows that of the 1,973,000 adults under correctional supervision in 1981, only 19% were in prison while 62% were on probation. While probation is widely used, it is a poorly understood sanction in the administration of criminal justice. The public's impression of probation is very much influenced by media coverage of isolated incidents and those incidents tend to deal with persons who have committed serious crimes, such as rape or homicide, while under probation supervision. Because statistical information on probation is sparse, it is difficult to put such isolated incidents into the context of a probation agency's overall workload.

This poor understanding of probation is due, in part, to the varied clientele with whom probation agencies may work. Some probation agencies work only with a felony caseload while others deal with a workload composed of a mix of felony and misdemeanor cases. Workload also varies among probation agencies such that some supervise only those persons convicted of a crime while others may also have to supervise persons in a pre-adjudicated status, i.e. those persons in a diversion program. The age of the probationer also contributes to the differences in workload among probation agencies. Some agencies deal only with adult probationers while others may deal only with juvenile probationers or a mix of adult and juvenile probationers. Finally, jurisdiction is a factor that contributes to differences among probation agencies. Some probation agencies are state agencies while others are county or municipal agencies.

It is difficult, therefore, to make simple comparisons across probation agencies because of this variety in the mix of clienteles with whom they work. Not only is there variety in the mix of clienteles but there is also variety among the probation agencies in their ability to identify and analyze statistically the different classes of clients whom they supervise. Indeed, in an organizational environment in which the alphabetical rolodex file is the key to unlocking the information in a probation agency's record system, the task of generating statistical profiles of probation activities is made all the more difficult.

## 1.2 The Approach

Because of these considerations, this study focused on only one segment of a probation agency's clientele: convicted adult felons. To be able to identify such probationers, the study utilized a cohort methodology that tracked adults convicted of a felony in courts of general jurisdiction and who were sentenced to probation. The cohort of probationers was derived from an earlier study undertaken by the National Association of Criminal Justice Planners titled, The Scales of Justice: Sentencing Outcomes in 18 Felony Courts. That study examined sentencing outcomes for seven felony offenses: homicide, rape, robbery, aggravated assault, burglary, larceny, and drug trafficking. In addition to providing identifying information on specific cases, a cohort approach also has the capacity to provide a broader context of the universe from which these probation cases were drawn. For example, the study, Scales of Justice, revealed that 46% of the felony sentences for the selected crime categories involved probation. Furthermore, the rate at which probation was imposed varied substantially among these seven crime categories.

As can be observed from Table 1, probation is a sanction that is prominent with non-violent offenses and is much less likely to be imposed for violent offenses. Only one in eight persons (14%) sentenced on homicide (which includes manslaughter and vehicular homicide) received a probation sentence. While the incidence of probation sentences doubled between that found for homicide and that found for rape and robbery, probation continues to represent only a small portion of the sentences for those crimes, i.e. one out of four (28% and 29% respectively). It is only with aggravated assault that probation becomes a prominent sanction for a violent offense. Half (50%) of the persons convicted of aggravated assault received a probation sentence. This is basically the same statistic found for the property offenses of burglary and larceny (45% and 55% respectively). With drug trafficking, an offense category that included possession with intent to sell, the use of probation was the dominant sanction imposed by the court. Seven out of every ten (70%) persons convicted of drug trafficking received a probation sentence.

Table 1  
Frequency with which probation was imposed at sentencing  
by crime of conviction

Crime of conviction	Percent of convicted felons receiving probation sentence
Homicide	14%
Rape	28
Robbery	29
Aggravated Assault	50
Burglary	45
Larceny	55
Drug Trafficking	70

The major advantage of the cohort approach, however, lay with its ability to identify specific cases in a probation agency's files. The ability to identify specific cases provided the key for examining a

class of clients common to a number of different agencies. This common clientele provided a measure of comparability for studying probation agencies serving different types of clienteles as well as operating in different organizational environments.

Another aspect to the commonality factor in this study was the utilization of the county as the jurisdictional unit of analysis. The ability to specify cases from a particular jurisdiction enabled the study to maintain a county identity (based on the jurisdiction from which the person was sentenced) regardless of the level of government responsible for supervising felony probationers. Table 2 illustrates the different configurations under which probation is organized in the 16 jurisdictions participating in this study.

Table 2  
Participating jurisdictions and characteristics of their probation agency's organization

County	State	Level of government responsible for felony probation	Organizational location of probation department
Baltimore City	Maryland	State	Corrections
Baltimore County	Maryland	State	Corrections
Dade County	Florida	State	Corrections
Davidson County	Tennessee	State	Probation
Denver	Colorado	State	Court
Jefferson County	Kentucky	State	Corrections
Jefferson Parish	Louisiana	State	Corrections
Kane County	Illinois	County	Court
Lancaster County	Nebraska	County	Probation
Los Angeles County <sup>a</sup>	California	County	Probation
Lucas County	Ohio	County	Probation
Maricopa County	Arizona	County	Court
Milwaukee County	Wisconsin	State	Corrections
New Orleans	Louisiana	State	Corrections
Oklahoma County	Oklahoma	State	Corrections
Riverside County	California	County	Probation

a. Data from Central Court District only. See Methodological Notes in Appendix B (geographical coverage).

Because the information collected on each probationer was rather extensive (see Appendix A for a copy of the questionnaire), the study sought to minimize intrusion into the participating probation agencies by limiting the number of cases to approximately 200 for each agency. This goal of 200 cases per agency was accomplished through sampling. The sampling ratio varied by crime and by jurisdiction. The cases that were selected were then weighted by the inverse of their sampling rate. The weights applied to each crime category within each jurisdiction can be found in the Methodological Notes (Appendix B). The study employed little sampling with the crime categories of homicide and rape. Sampling was used more extensively for the property crimes of burglary and larceny as well as with drug trafficking. In total, the study sought to examine nearly 3,000 probation case files which represented 10,400 weighted cases.

### 1.3 Completion Rate

One of the realities associated with a cohort study is the potential for the loss of cases as they move from one processing stage (sentencing) to the next (probation supervision). Such reality surfaced with this study. In some instances, adults sentenced to probation never made it to probation supervision because of extradition to another jurisdiction, deportation from the United States, or a prison sentence on a separate charge. In other instances there was an inability to link the court case to a probation record.

As shown in Table 3, the loss of cases between sentencing in court and reporting to probation was minimal in many of the jurisdictions participating in this study. The percentage of sentencing cases selected for study that resulted in completed probation questionnaires ranged between 90-100% in most of the jurisdictions. In two of the

larger jurisdictions (Dade County and Los Angeles), however, the completion rate fell substantially below that found for the other jurisdictions. In Los Angeles only 73% of the sentencing cases resulted in completed questionnaires and in Dade County the completion rate was 78%.

Table 3

The total number and percent of weighted felony sentencing cases that resulted in completed probation questionnaires by jurisdiction

Jurisdiction	Total of weighted felony sentencing cases selected for this study	Percent of total weighted cases resulting in completed probation questionnaires
Total	10,400 cases	84%
Baltimore City	559	98
Baltimore County	335	95
Dade County	1,044	78
Davidson County	282	95
Denver	414	90
Jefferson County	328	82
Jefferson Parish	342	99
Kane County	146	97
Lancaster County	53	98
Los Angeles	2,733	73
Lucas County	241	100
Maricopa County	1,870	88
Milwaukee County	752	89
New Orleans	318	94
Oklahoma County	562	70
Riverside County	421	87

In Los Angeles and Dade County, the sentencing data came from computerized data systems. These data systems are agency oriented, not system oriented. One agency's identifier is not always shared by other criminal justice agencies in the jurisdiction. This factor contributed substantially to the inability to match sentencing cases in both Los Angeles and Dade County.

In addition, a number of sentencing cases were matched to a probation record, but the probation record could not be located. This

was especially true in Los Angeles.<sup>1</sup> Los Angeles has a number of factors that contributed to this phenomenon of "lost records." Because of its large workload as well as its large area size, Los Angeles utilizes a decentralized approach (regional offices) in supervising probationers. Records are not in a central repository but rather are dispersed among the various regional offices throughout the county. These records are moved when the probationer moves or if his/her status changes, e.g. completed probation, revoked, etc. Despite its size, the Los Angeles County Probation Department does not have a computer to assist it in tracking what happens to probation cases under its supervision. This task is performed manually, a development which makes an already tedious administrative chore more difficult.

While this study would have preferred a complete match between the sentencing cases and probation records and a higher completion rate in Los Angeles and Dade County, it was conducted within the organizational realities in which probation departments operate. Despite the fall off in cases, the information gathered on probationers from these 16 jurisdictions provides useful insight on the supervision of convicted adult felons in the community.

For example, even though Los Angeles and Dade County tended to lower the overall completion rate of the probation questionnaires, their impact was fairly evenly spread among the seven crime categories being analyzed in this study. Five of the crime categories (homicide, rape, aggravated assault, burglary, and larceny) had a completion rate ranging between 87-89%. Robbery was slightly lower with a completion rate of 82%. Only drug trafficking fell below 80%, with a completion rate of 75%.



#### 1.4 Crime of Conviction

The data displayed in Table 4 reinforces the information revealed earlier in Table 1; i.e. not only do drug trafficking and the property crimes of burglary and larceny have large percentages for adults sentenced to probation but these crime categories also constitute the lion's share of the caseload among the crime categories being examined in this study. Three out of every four felony probationers (76%) were convicted of burglary, larceny, or drug trafficking. Robbery and aggravated assault constituted another 20% of the probation workload with homicide and rape rounding out the difference with a combined total of only four percent (4%) of the felony probation workload. Clearly, therefore, the vast majority of persons who are on probation represent more of a threat to our property than to our physical well being.

Table 4  
The percent distribution of weighted probation cases under study in this report by crime of conviction

Crime of conviction	Percent of all weighted probation cases in study
Total	100%
Homicide	1
Rape	3
Robbery	11
Aggravated Assault	9
Burglary	28
Larceny	25
Drug Trafficking	23

#### 1.5 Study Outline

The statistical analysis in this study is of a descriptive nature. The value of such a descriptive inquiry is twofold. First, this report provides an overview of how the supervision of a class of felony probationers is operating as a whole in a jurisdiction as opposed to the piecemeal picture obtained through the exposure to

isolated individual cases. Second, these descriptive data can provide a baseline against which the impacts of change to probationary supervision can be measured. The objectives of this study, therefore, are to describe:

- The demographic characteristics of probationers
- The nature and level of supervision that probationers receive
- The extent and types of specified conditions imposed on probationers
- The degree of probationer compliance with these specified conditions
- The extent to which probationers are arrested and/or subjected to probationary disciplinary hearings while under supervision
- The exit status of probationers from community supervision

### Footnotes

1. The reader is reminded that the name Los Angeles refers to the Central Court District of Los Angeles County from which the original sentencing data were drawn (cohort). This Central Court District is basically coterminous with the boundaries of the City of Los Angeles.

## Chapter 2: PROBATIONER PROFILE

### 2.1 Introduction

Based on the information collected for this report, the sketch of a "typical" felony probationer would appear as follows: a male in his mid-twenties, living at home with his family, who has less than a full time job paying slightly more than the minimum wage and who was sentenced to probation for 36 months because of a property crime conviction. There is, of course, a range of variation around this "typical" probationer and the information presented in this section of the report will provide a more detailed picture of the different types of persons making up a probation agency's felony workload. In addition to examining the demographic characteristics of felony probationers, this section will also examine the type of supervision that these felony probationers receive as well as their present status; i.e. whether or not they are still under active supervision.

### 2.2 Demographic Characteristics

Young males tend to dominate the workload encountered by all agencies in the criminal justice process. It comes as no surprise, therefore, to find that 88% of the probationers in this study are male and that their average age is 26 years.<sup>1</sup> As can be observed in Table 5, three out of four felony probationers (75%) are thirty years of age or younger. Only one out of fourteen felony probationers (7%) are over 40 years of age.

While this pattern basically holds for each gender, there are differences in the distribution of probationers among the various age categories between male and female probationers. Males are more heavily concentrated in the younger age groupings. This is especially

true for those probationers who are under 21 years of age. Better than one out of four male probationers (26%) fall into this age group while only nine percent (9%) of the female probationers do. As a consequence, female probationers have higher percentage shares than male probationers in each of the remaining age groups. This differential distribution among these age categories for the different sexes produces a higher average age for female probationers than that found for male probationers (31 versus 26 years of age respectively).

Table 5  
Average age of probationers and their percent distribution by sex and age at sentencing

Age of probationer	Total all probationers	Male probationers	Female probationers
Average age	28 years	26 years	31 years
Under 21	24%	26%	9%
21-30	51	51	60
31-40	17	16	21
41-50	5	5	7
Over 50	2	2	3

Note: This table was computed by using only those cases where the sex and age of the probationer was ascertained which occurred in 95% of the cases.

The distribution of male and female probationers across the seven crime of conviction categories evidences some notable differences. Table 6 graphically points out the rarity of female probationers convicted of burglary. While only seven percent (7%) of the female probationers were sentenced on a burglary conviction, three out of every ten male probationers (31%) were sentenced to probation for this crime. The most prominent crime for which females are sentenced to probation is that of larceny. Four out of every ten females (40%) are sentenced to probation for this offense. While most female

probationers were sentenced on non-violent offenses, there is one violent offense for which they evidence a higher proportionate share than that found for male probationers; i.e. homicide. Three percent (3%) of the female probationers were sentenced on a homicide conviction as opposed to only one percent (1%) of the male probationers.

Table 6  
Percent distribution of probationers by their sex and crime of conviction

Crime of conviction	Male	Female
Homicide	1%	3%
Rape	3	0
Robbery	12	10
Aggravated assault	9	10
Burglary	31	7
Larceny	22	40
Drug trafficking	23	30

Note: This table was computed by using only those cases where the sex of the probationer was ascertained which occurred in 97% of the cases.

An analysis of the distribution of probationers by their crime of conviction categories and their age at sentencing reveals even stronger differences. Crimes that are risky to carry out -- robbery and burglary -- evidence much higher percentage shares among younger probationers than those found among older probationers. As shown in Table 7, there is a steady decline in the percentage share of probationers who were sentenced to probation for convictions on robbery and burglary charges as the age of the probationer increases from being under 21 years of age to those who are over 50 years of age. With robbery, for example, almost one out of five probationers (18%) who were under the age of 21 were sentenced to probation for this offense while only one percent (1%) of those probationers over the age of 50 were. Similarly with burglary, four out of ten probationers (40%) under the age of 21 were

sentenced to probation for this offense while only one percent (1%) of those probationers over the age of 50 were.

Rather than being sentenced on crimes involving risk and financial gain, older probationers tend to be sentenced to probation for crimes of violence -- homicide, rape, and aggravated assault. This pattern is particularly strong with the crime of aggravated assault. As presented in Table 7, three out of every ten probationers (31%) aged 51 or older were sentenced to probation due to a conviction of aggravated assault. This percentage share drops consistently as one moves from this oldest age category to the youngest age category, where aggravated assault is the crime of conviction resulting in probation for only one out of every 20 (5%) probationers under 21 years of age.

Table 7  
Percent distribution of probationers by their age at sentencing and crime of conviction

Crime of Conviction	Age of probationer at sentencing:				
	Under 21	21-30	31-40	41-50	Over 50
Homicide	1%	1%	2%	4%	6%
Rape	1	2	4	8	9
Robbery	18	12	6	3	1
Aggravated assault	5	8	11	16	31
Burglary	40	30	13	12	1
Larceny	22	23	30	29	23
Drug trafficking	13	24	34	29	30

Note: This table was computed using only those cases where the probationers age could be ascertained which occurred in 97% of the cases.

This pattern is also apparent with the crimes of homicide and rape. With homicide, for example, there is a strong decrease in the proportionate share of probationers sentenced on this offense as age decreases from six percent (6%) to one percent (1%), except between the under 21 and the 21-30 age groups where the percentage share is the

same (1%). With the crime of rape, there is a falling off in the percentage share of probationers convicted on this offense from the high of nine percent (9%) for those over 50 years of age to one percent (1%) for those under 21 years of age.

The offense of drug trafficking is also one that constitutes an increasingly larger share of probationers as their age increases. While 13% of the youngest probationers (under 21) are sentenced to probation for drug trafficking, the percentage share more than doubles for those aged 31 or older (34% for those aged 31-40, 29% for those aged 41-50, and 30% for those aged 50 or over).

This analysis of the age of the probationer and the offense for which he/she was sentenced to probation reveals two rather different portraits of young probationers and old probationers. Eight out of ten (80%) young probationers (under 21) are sentenced to probation for crimes of economic gain (robbery, burglary, larceny) and these young probationers evidence a fairly high degree of risk taking in their criminal behavior as demonstrated by the high share of their probation sentences attributed to the offenses of robbery (18%) and burglary (40%). The older probationers (over 50), on the other hand, evidence much less involvement in crimes of economic gain such that only one out of four (25%) are sentenced to probation for robbery, burglary, and larceny offenses. Indeed, when these older probationers do become involved with these property offenses, they overwhelmingly take the least risky crime -- larceny. These older probationers tend to be much more involved with crimes of violence and drug trafficking. Although this study did not go into the different interventionist strategies that probation agencies use in dealing with their clientele, clearly, given the differences between young and older probationers in terms of the



crimes for which they are sentenced to probation, there would appear to be the need to develop different approaches for each of these age groups.

### 2.3 Employment Status

In three out of every four cases (75%), the employment status of the probationer was ascertained. In those instances where it was ascertained, there appears an almost equal distribution for those probationers who work full time (33%), those who work part time (38%), and those who are unemployed (27%). The remaining two percent (2%) of the probationers are either students, retired persons, or persons with a disability that prevents them from working.

As can be observed in Table 8, the majority of probationers in each of the age groups experience some form of employment. There is a tendency for the percentage of unemployed probationers to decrease as the age of the probationers moves toward middle age, i.e. the 31-40 year old group. After that age group, there is then an increase in the percentage of unemployed probationers in the oldest age groups. Consequently, while only 22% of the probationers aged 31-40 are unemployed, both the youngest age group (under 21) and the oldest age group (over 50) have substantially larger percentages of unemployed probationers (33% and 27% respectively).

The distribution between full time and part time work across the various age groups also evidences some noticeable differences. Part time work figures very prominently among those probationers who are 40 years of age or younger. The percentage of probationers working part time ranges between 36-42% for these probationers compared to a range of 17-26% for those probationers over 40 years of age. Conversely, full time work becomes more prevalent as the age of the probationer

increases. Only 29% of those probationers under 21 years of age have a full time job compared to 46% of those probationers aged 41-50 and 45% for those over 50 years of age.

Table 8  
Percent distribution of probationers by their age at sentencing and employment status

Age of probationer	Employment status of probationers:				Total
	Full time work	Part time work	Other	Unemployed	
Total	33%	38%	2%	27%	100%
Under 21 years	29	36	3	33	100
21-30	32	40	2	26	100
31-40	36	42	1	22	100
41-50	46	26	1	26	100
Over 50	45	17	12	27	100

Note: This table was computed using only those cases where employment status and age was ascertained which occurred in 75% of the cases.

The "Other" employment category embraces only two percent (2%) of all probationers. Table 8, however, shows that this category constitutes the employment status of a noticeable number of probationers in the oldest age group. The 12% of the probationers in the oldest age group in the "other" category are either retired or on disability.

Table 9 presents the average hourly wage earned by employed probationers along with their average annual salaries.<sup>2</sup> While the average wage earned by a probationer is above the minimum wage, it is useful to bear in mind that a \$5.43 hourly wage generates an annual income of \$11,300. This income level falls well within the lower income brackets. Even though a probationer with a full time job earns a higher hourly wage than one who works part time (\$6.42 per hour versus \$4.19 per hour), that wage still translates into a very modest

annual salary of \$13,500. Meanwhile those who work part time earn only \$4.19 per hour so that even if they worked full time they would have a projected annual salary of only \$8,700.

Table 9  
Average hourly wage and annual salary of working probationers  
by their employment status

	Total for working probationers	Probationers working:	
		Full time	Part time
Average hourly wage	\$ 5.43	\$ 6.42	\$ 4.19
Projected annual salary	\$11,300	\$13,500	\$ 8,700

As can be observed in Table 10, the income earning capability between male and female probationers is mixed. Female probationers evidence about the same percentage for those working full time as that found for male probationers (31% versus 33%). Both male and female probationers have about the same share for those working part time (38% versus 36% respectively). Where differences do occur is with the average hourly wages. Male probationers earn 19% more than female probationers (\$5.53 versus \$4.63 per hour).

Table 10  
Employment status and average hourly wage of probationers by sex

Sex of probationer	Percent working:		Average hourly wage
	Full time	Part time	
Male	33%	38%	\$ 5.53
Female	31	36	4.63

Note: This table was computed using only those cases where employment status and hourly wage were ascertained which occurred in 77% of the cases.

An analysis of the crime of conviction categories and the employment status of probationers also reveals some interesting findings.

Those probationers convicted of homicide and rape evidence the highest percentages for probationers with full time work (44% and 43% respectively). Probationers convicted of robbery, on the other hand, evidence the highest percentage for unemployed probationers, 46%, a figure that is substantially higher than that found among any of the other offense catagories. Indeed, the next highest percentage for probationer unemployment is 29% for those probationers who were convicted of burglary. While probationers convicted of burglary have one of the lowest percentages for those working full time (25%), that is offset to some degree by their having the highest percentage for those probationers working part time (44%).

Table 11  
Percent of probationers by employment status and crime of conviction

Crime of Conviction	Employment status of probationer:				Total
	Full time	Part time	Other	Unemployed	
Homicide	44%	29%	3%	24%	100%
Rape	43	33	3	20	100
Robbery	25	24	4	46	100
Aggravated assault	41	38	3	18	100
Burglary	25	44	1	29	100
Larceny	35	41	2	23	100
Drug trafficking	40	37	1	22	100

Note: This table was computed using only those cases where employment status was ascertained which occurred in 77% of the cases.

#### 2.4 Living Arrangements

In nearly one out of every seven cases (69%), the probationer's living arrangements were ascertained. In the vast majority of these cases (65%), the probationer lives at home with a spouse or parents. This high percentage of probationers living in a family environment is not surprising because it tends to be a consideration in the judges' decision to sentence the convicted felon to probation instead of

prison. Among the crime of conviction categories (see Table 12), it is interesting to observe that while nearly eight out of every ten probationers (79%) convicted of homicide live in a family environment, only 56% of the drug traffickers live with their family. Among the other crime of conviction categories, there is a tight range (66% to 71%) for the percentage of probationers living with family.

Table 12  
Percent of probationers by their living arrangements  
and crime of conviction

Probationer living arrangements:

Crime of Conviction	With family	With non- family	Alone	Other	Total
Total	65%	16%	11%	8%	100%
Homicide	79	6	12	4	100
Rape	71	12	14	3	100
Robbery	68	14	10	8	100
Aggravated assault	66	16	12	6	100
Burglary	69	17	7	7	100
Larceny	67	16	10	7	100
Drug trafficking	56	17	17	11	100

Note: This table was computed using only those cases where living arrangements were ascertained which occurred in 70% of the cases.

Few probationers (11%) live alone. However, probationers convicted of drug trafficking and rape evidence the highest percentages for probationers living alone (17% and 14% respectively). Those probationers convicted of burglary (7%), robbery and larceny (10% each), on the other hand, evidence the lowest percentages for those living alone.

Nearly one out of four probationers either share accommodations with non-family (16%) or live in such places as group homes (8%). Those probationers who were convicted of drug trafficking are most

prominent in this style of living. Seventeen percent (17%) of these probationers live with non-family and another 11% in some other arrangement.

The living arrangements of probationers evidence notable differences when examined by their sex and age. The relative differences between male and female probationers tend to be modest as can be observed in Table 13. Both groups tend to live at home with their families, though this is the case more so with females than with males (69% versus 64%). Females are less likely to live alone than males (7% versus 12%) but are more likely to take up residence with non-family (20% versus 15%). The most notable difference in living arrangements between female and male probationers occurs with the category, "other arrangement." Very few females (3%) find themselves in this situation compared to a sizeable share (9%) of the male probationers.

Table 13  
Percent of probationers by living arrangements and sex

Living arrangement	Male	Female
Total	100%	100%
With family	64	69
With non-family	15	20
Alone	12	7
Other arrangement	9	3

Note: This table was computed using only those cases where sex and living arrangements of the probationer were ascertained which occurred in 70% of the cases.

An analysis of probationers' living arrangements by their age at sentencing reveals much more striking differences than those found in the analysis along the dimension of sex. For instance, as the age of the probationer increases it becomes less likely for the probationer to be living at home with his/her family. As can be observed in Table 14,

those probationers under 21 years of age evidence the highest percentage for those living with family (70%). Probationers over 30 years of age, on the other hand, evidence a much lower percentage for those living with family (58%).

Table 14  
Percent of probationers by living arrangements and age at sentencing

Living arrangements	Age at sentencing:				
	Under 21	21-30	31-40	41-50	Over 50
Total	100%	100%	100%	100%	100%
With family	70	66	58	58	58
With non-family	13	19	16	12	12
Alone	8	9	14	24	26
Other arrangement	9	6	12	6	4

Note: This table was computed using only those cases where living arrangement and age at sentencing were ascertained which occurred in 67% of the cases.

Rather than living with family members, older probationers tend to live by themselves. One out of every four probationers over 40 years of age lives alone. Younger probationers, on the other hand, seldom live alone. Only eight percent (8%) of those under 30 years of age live alone. Economics is probably a factor that prevents younger probationers from venturing out to establish their own residence.

Another aspect of probationers' living arrangements is the stability with which they maintain a residence; i.e. do they stay put or do they tend to move frequently. As can be observed in Table 15, there is a tendency for probationers to move. Overall, only 41% of the probationers maintained the same address for the 20 months that they were exposed to probation. While 31% had to move once or twice for such reasons as a lease running out, another 28% tended to move more

often. This tendency to move often can be problematic to probation agencies from the simple consideration of knowing where to locate the probationer.

Table 15  
Frequency of moving by age of probationer

Age group	Same address	Moved 1-2 times for reason	Moves often	Total
Total	41%	31%	28%	100%
Under 21	45	29	25	100
21-30	40	33	27	100
31-40	39	27	34	100
41-50	37	27	35	100
Over 50	46	46	8	100

Note: This table was computed using only those cases where frequency of moving and age at sentencing were ascertained which occurred in 67% of the cases.

As can be observed in Table 15, this tendency for probationers to move often tends to increase as the age of the probationer increases into middle age. While one out of four probationers (25%) under the age of 31 move often, 34% of those aged 31-40 and 35% of those aged 41-50 are constantly on the move. However, only 8% of those probationers over 50 years of age move often.

Younger probationers tend to maintain the same residence probably because they are living at home with their parents and do not have the resources due to unemployment and/or low wages, to move. Forty-five percent (45%) of probationers under the age of 21 maintain the same address while under probation supervision. On the other extreme are those probationers aged 41-50. Of those, only 37% are able to maintain the same residence while under probation supervision.

There is no apparent pattern to be found in the analysis of the need to move once or twice for a reason by the age of the probationer.



However, it is noteworthy that 46% of the oldest probationers (over 50) found themselves in this situation compared to only 29% of the youngest probationers (under 21).

## 2.5 Supervising the Probationer

Convicted felons who are sentenced to probation do not necessarily generate an active file within the probation agency. Practice varies among jurisdictions such that a felony court may maintain jurisdiction over the probationer without ever formally referring the case to the felony probation agency. One name for this type of probation is "summary probation" and it is meted out primarily for property offenses. In other instances, the judge may refer the case to the probation agency but in so doing indicate that the probationer need not be supervised. Whatever the practice and the name given it, the outcome is the same; i.e. the probationer is on his/her own good behavior. If there is any contact with the probation agency it will usually be in the form of a monthly post card or telephone call to let the agency know of his/her whereabouts.

As noted earlier, probationers have a tendency to move. In some instances, their moving may take them out of the jurisdiction of the probation agency. In those instances the probation agency must first approve of the move and then make arrangements for the person to be supervised in the community to which he/she is moving. In this circumstance the case is "transferred" and the transfer may be to a jurisdiction within the state or to another state.

As can be observed in Table 16, better than five out of six probation cases (89%) receive supervision under the probation agency assigned to the felony court meting out the sentence. An additional seven percent (7%) of the cases remain within the jurisdiction of the

felony court but these cases do not receive any direct supervision; i.e. they are unsupervised. The balance of the cases (5%) are made up of those probationers who move out of the jurisdiction of the sentencing court and are thus transferred to another probation agency for supervision.

An analysis of the type of supervision that a probation case receives by the crime of conviction reveals some notable findings. To begin with, only two percent (2%) of those probationers convicted of homicide receive unsupervised (summary) probation. Probationers convicted of drug trafficking, on the other hand, evidence the highest incidence of summary probation. Twelve percent (12%) of those convicted of drug trafficking and sentenced to probation, receive no direct supervision from the probation agency. The remaining crime categories display a range of from two to seven percent (2-7%) receiving unsupervised probation.

Table 16  
Type of supervision by crime of conviction

Crime of conviction	Type of supervision:			Total
	Local supervision	Local unsupervised	Transfer	
Total	89%	7%	5%	100%
Homicide	91	2	7	100
Rape	91	2	7	100
Robbery	92	5	3	100
Aggravated assault	89	7	4	100
Burglary	92	4	4	100
Larceny	88	5	6	100
Drug trafficking	83	12	5	100

With regard to probationers who transfer to other jurisdictions, there is no substantial variation among the crime of conviction categories. All of the crime of conviction categories evidence a tight

range from three percent to seven percent (3-7%) for probationers having their supervision transferred to another probation agency.

## 2.6 Field Contacts

What about the nature of the supervision that these 89% of the supervised probationers received? One area of inquiry in the probation questionnaire dealt with face-to-face contacts. A question was posed asking, "Out of a typical 10 face-to-face contacts, how many occurred in the field and how many in the probation agency's offices?" In 41% of the cases, no face-to-face contacts occurred in the field; i.e. at the probationer's home, neighborhood, or workplace. In other words, all of the face-to-face contacts between the probation officer and four out of every ten probationers took place in the probation agency's offices.

As can be observed in Table 17, the reliance on office visits for meeting with probationers varies substantially based on the probationer's crime of conviction. Probation officers rely on office visits as their sole way of meeting with probationers 62% of the time for those convicted of drug trafficking. However, this sole reliance on office visit contact diminishes substantially in dealing with those convicted of rape, robbery, aggravated assault, burglary, and larceny. In two out of every three cases for probationers convicted of these offenses, the probation officer makes the effort to meet, at least some of the time, with probationers at their home, neighborhood, or workplace.

The distribution in the frequency at which field visits occur out of a typical ten face-to-face contacts displayed in Table 17 continues to demonstrate the office orientation of probation agencies. While it might be better to have surprise visits in the field with probationers

to reinforce the message that someone is keeping tabs on them, the reality is that field visits are time consuming. Probation officers have to make trade-offs due to their case workloads. Office visits represent a trade-off of making some kind of contact with the probationer on a frequent basis rather than making very infrequent contact if one were to rely solely on field visits.

Table 17  
Percent distribution of face-to-face contacts (visits) between probation officer and probationer by place of occurrence and crime of conviction

Crime of conviction	Type of visit:		Frequency of field visits out of a typical ten contacts:			
	Office only	Mix of office and field	Up to two	Two to three	Four to five	Six to ten
Total	41%	59%	22%	25%	8%	4%
Homicide	48	52	15	21	12	4
Rape	33	67	27	26	9	4
Robbery	33	67	20	32	13	2
Aggravated assault	34	66	24	31	6	5
Burglary	33	67	22	32	10	3
Larceny	35	65	26	25	8	6
Drug trafficking	62	38	19	13	3	3

Note: This table was computed using only those cases where information on face-to-face contacts was ascertained which occurred in 78% of the cases.

One-fourth (25%) of all probationers experience two to three field visits out of every ten contacts made with their probation officer. The percentage share is somewhat higher for those convicted of robbery, aggravated assault, and burglary (31% to 32%) than that found among the other crime of conviction categories.

Probation officers conduct six or more field visits out of a typical ten face-to-face contacts with only four percent (4%) of their

cases. Probationers convicted of larceny evidence the highest percentage for cases receiving this kind of supervision (6%), while those convicted of robbery evidence the lowest percentage (2%).

## 2.7 Probation Status

This section examines whether or not a probationer is still under the active supervision of the probation agency. The majority of probation cases analyzed for this study were still under active supervision at the time the study's questionnaire was completed. However, 47% were no longer under the active supervision of the probation agency. The means by which probationers were removed from this active supervision status were as follows:

- served term
- absconded
- revoked
- other (including death, deportation, extradition)

In examining probationers who served their terms, this study made no distinction between those who met their conditions of probation satisfactorily from those who did not. An unsatisfactory closure, for example, might involve the probationer's failure to pay the fine assessed by the court. Because the administrative use of the distinction between the satisfactory and unsatisfactory serving of a probation term varied among the probation agencies involved in this study, the decision was made not to utilize these distinctions when the participating agencies provided them. Consequently, probationers who completed their terms should not necessarily be viewed as total successes. A later section of this report examines how well probationers did in meeting various financial and behavioral conditions imposed on them by the court at sentencing.

Probation agencies also differ in how they administratively handle

absconders. Probationers become absconders when they move and fail to maintain contact with their probation officers or fail to keep their whereabouts known to their probation officers. Because these probationers cannot be located, they cannot be supervised. Generally probation agencies will initiate a disciplinary procedure against these absconders in order to obtain a bench warrant against them. The bench warrant enables law enforcement agencies to detain absconders if and when they come into contact with them. With a bench warrant in hand, the probation agency may continue to show these absconders as "active" cases or as "closed" cases.

In effect these absconders have their probation supervision in a state of suspension until they are once again located. It is because of this suspended supervision that the analysis treats absconders as being removed from active supervision status, regardless of how the probation agency may classify these absconders administratively. There is the need to remember, however, that once these absconders are apprehended, there is the possibility of their active supervision being reinstated.

The term "revocation" has different meanings among probation agencies. In Denver, for example, probationers are revoked whenever they are found guilty of a rule infraction in a disciplinary hearing. Revocation in Denver means that the original probation order is cancelled and, in most instances, is replaced by a new probation order with new or altered conditions.

Some agencies treat probationers who become incarcerated in local correctional institutions, such as the county jail, as having had their probation revoked. Being sent to jail while on probation, however, does not constitute a "revocation" for the purposes of this study.<sup>3</sup> Operationally, this study defines revocation as probationers' being

sent to state prison as the result of a conviction on a new offense or as the outcome of a probation disciplinary hearing.<sup>4</sup>

The "other" category for removal from active supervision status covers such contingencies as probationers' dying, their deportation, or their extradition to another jurisdiction to stand trial on a previously committed offense.

As can be observed in Table 18, better than three out of four convicted felons sentenced to probation are either still under active supervision (55%) or have completed their probation term (21%). When examined by the crime for which probationers were convicted, one finds that the vast majority of those convicted of homicide or rape are still under probation supervision (80% and 76% respectively). These two crimes have the longest average probation terms imposed at sentencing among the seven crime categories under analysis here. The average probation term for persons convicted of homicide is 54 months and for those convicted of rape it is 57 months. Given these long average terms it is not surprising, therefore, to find so many still on active probation supervision.

Table 18  
Percent distribution of probationers by status of supervision  
and crime of conviction

Crime of conviction	Status of supervision:				
	Still on probation	Completed term	Absconded	Revoked	Other
Total	55%	21%	9%	14%	1%
Homicide	80	10	3	5	2
Rape	76	10	3	10	1
Robbery	64	9	9	16	3
Aggravated assault	66	18	6	9	1
Burglary	50	17	9	23	2
Larceny	48	29	9	13	1
Drug trafficking	55	27	9	8	1

Persons convicted of larceny, on the other hand, show the highest percentage for those having completed their probation term (29%). The average probation term imposed for larceny is only 24 months, so it is expected to see so many to have already completed their terms.

Because of the inherent risk in granting probation to persons convicted of felonies there is concern about the frequency with which probationers are revoked. As displayed in Table 18, 14% of the probationers have their probation revoked. There is, however, substantial variation in the rate at which probationers are revoked based on their crime of conviction. Only five percent (5%) of those probationers convicted of homicide are revoked in contrast to 23% of those who were convicted of burglary.

There is no clear delineation in the revocation rates between those persons convicted of violent crime and those convicted of non-violent crime. Although persons convicted of homicide or aggravated assault have the lowest revocation rates (5% and 9% respectively), those who were convicted of robbery have a notably higher revocation rate (16%). Persons convicted of larceny or drug trafficking have revocation rates that fall in the middle (13% and 8% respectively). There is a need, therefore, to avoid generalizations about revocation along the lines of violent and non-violent crime. Rather the focus must be on the specific crimes for which the persons were sentenced to probation.

Having to revoke a person's probation certainly represents a failure, but failure for whom? The probation agency invokes the revocation process because of the probationer's actions. Failure is more clearly assessed against the probationer rather than against the probation agency because the decision of the probation agency to initiate



the revocation process is precipitated by the probationer's failure to live up to the conditions of probation or because of a new offense.

Another aspect of probationer failure is the act of running away (absconding). Unlike the secure environment of jail or prison, probationers are not subject to constant supervision and consequently have considerable freedom to move about in the community, including the boarding of a bus, a plane, or a train. In sentencing persons to probation, the court places a level of trust in these persons; i.e. trust that they will remain in the community and keep the probation agency apprised of their whereabouts. In large measure this trust appears to be well placed. However, nine percent (9%) of the probationers under review here were absconders at the time the questionnaires were filled out.<sup>5</sup> Once again probationers exhibit differences in the rate at which they abscond based on their crime of conviction. Only three percent (3%) of those convicted of homicide or rape abscond compared to nine percent (9%) of those convicted of robbery, burglary, larceny, or drug trafficking.

Interestingly, there is a hint of skepticism on the part of the court in placing this trust in probationers to remain in the jurisdiction based on the type of probation sentence handed out. Those probationers who received a split sentence (jail with probation) abscond 14% of the time compared to only four percent (4%) of those who receive straight probation sentences (no jail).

Although only time will tell how well those probationers who are still on active supervision will do in completing their terms, there are indications that most will do so successfully. Those still on probation supervision have served, on the average, more than half of their sentences. Their average probation term was 39 months and their

average time served was 20 months. Those who were revoked, on the other hand, had an average of only 13 months probation supervision before being sent to prison, with many of these revocations taking place within seven to 12 months from the start of their probation terms. There is a similar tendency for these probationers who abscond to take off in the beginning of their term. Consequently, while the possibility of more revocations and absconding exists for those who are still under supervision, it nonetheless appears at this time that those additional revocations and absconders will be few because problem probationers tend to surface within the first year of probation supervision.

## 2.8 Supervision Status by Jurisdiction

As can be observed in Table 19, there is substantial variation among jurisdictions with regard to those persons who have completed their probation terms. This is largely affected by the average probation term imposed. Jefferson Parish and Denver have the highest percentages for probationers having completed their probation terms (48% and 49% respectively) but their average probation terms imposed (12 months and 27 months respectively) are also among the lowest average terms imposed. Baltimore City, on the other hand, shows only eight percent (8%) of its probationers as having completed their terms but it has one of the highest average probation terms imposed (44 months) among the jurisdictions studied.

The incidence of probationers' absconding also varies substantially among jurisdictions. On one extreme are Jefferson Parish, Kane County, and New Orleans where only one percent (1%) of the probationers run away. Absconding is much more of a problem in Baltimore County and

Los Angeles. In Baltimore County 14% of the probationers abscond and in Los Angeles the figure is 18%.

Table 19  
Average probation term imposed and the percent distribution of probationers by their status of supervision and jurisdiction

Status of Supervision:

Jurisdiction	Average probation term	Still on probation	Completed term	Absconded	Revoked	Other
Total	39 months	55%	21%	9%	14%	1%
Jefferson Parish	12	45	48	1	5	1
Kane County	21	46	40	1	11	1
Denver	27	27	49	9	14	0
Lancaster County	28	63	27	4	4	2
Baltimore County	30	45	25	14	9	7
Riverside County	33	66	10	5	18	1
New Orleans	34	61	24	1	14	0
Milwaukee County	34	52	20	5	22	0
Oklahoma County	36	39	37	9	13	2
Lucas County	37	61	20	6	13	0
Los Angeles	38	59	10	18	14	0
Dade County	40	64	21	4	8	2
Davidson County	42	62	20	5	11	2
Baltimore City	44	65	8	4	20	3
Maricopa County	50	53	21	6	18	1
Jefferson County	58	47	33	2	10	8

The participating jurisdictions continue to exhibit differences with regard to the frequency with which revocations occur. Revocation ranges from a low of four percent (4%) of the probation cases in Lancaster County to a high of 22% for Milwaukee County. Most of the jurisdictions cluster between eight percent (8%) and 20% as the frequency at which probation is revoked.

There appears to be no relationship between the rate at which probation is granted within a jurisdiction and the rate at which probationers abscond or are revoked. For example, Jefferson Parish had

56% of its felony sentences result in probation and, as shown in Table 19, only six percent of these cases abscond (1%) or get revoked (5%). Los Angeles also had a large number of felony sentences involving probation (49%) but it experienced very high percentages for probationers absconding (18%) or being revoked (14%). Davidson County, on the other hand, had only 29% of its felony sentences result in probation and yet its incidence of revocation (11%) is fairly high. There is no apparent pattern, therefore, between the rate at which probation is granted and the risk of those persons absconding or being revoked. Patterns do emerge, however, in the examination of probationer characteristics and their likelihood to abscond or to be revoked.

#### 2.9 Supervision Status by Probationer Characteristics

An examination of the probationer's ability to maintain a stable residence may be useful to illustrate this point. As can be observed in Table 20, those probationers who move often tend not to do well on probation. Of these probationers who move often, very few (9%) have completed their probation term while nearly four out of ten of them have either absconded (22%) or have been revoked (17%). Overall, 28% of the probationers move often. As is often the case, however, this percentage varies substantially among jurisdictions such that only eight percent (8%) of the probationers in Kane County move often in contrast to 40% of the probationers in Los Angeles. Consequently, the large percentage of probationers' absconding or being revoked in Los Angeles is partly a function of a characteristic of that clientele (their tendency to move often).

Table 20  
Status of probationer's supervision by their ability to maintain  
a stable residence

Residence stability	Status of supervision:					Total
	Still on pro- bation	Com- pleted term	Ab- sconded	Revoked	Other	
Same address	61%	24%	4%	10%	1%	100%
Moved 1-2 times	66	16	5	10	2	100
Moved often	51	9	22	17	0	100

Note: This table was computed using only those cases where residence stability and status of supervision were available which occurred in 69% of the cases.

Probationers' employment status also affects how well they do on probation. As shown in Table 21, few of the probationers who have full time jobs abscond (2%) or get revoked (2%). Those who are unemployed, on the other hand, show substantially higher percentages for absconding (15%) and revocation (22%). Those with part time work fall between these extremes with 11% absconding and 13% being revoked.

Table 21  
Percent distribution of probationers by their status of supervision  
and their employment status

Employment status	Status of supervision:					Total
	Still on pro- bation	Com- pleted term	Ab- sconded	Revoked	Other	
Full time	72%	23%	2%	2%	1%	100%
Part time	58	17	11	13	1	100
Unemployed	50	12	15	22	1	100

Note: This table was computed using only those cases where supervision and employment status were ascertained which occurred in 75% of the cases.

The category of part time work covers a range of work experience from steady part time work to very short and erratic periods of work. When the data are examined by the type of part time work the proba-

tioner performs some interesting differences appear. For example, those probationers with steady part time work rarely abscond (less than 1%) in contrast to the 13% who have short and erratic work periods. Similarly those with steady part time work have a substantially lower revocation rate than those with short or erratic work periods (11% versus 18%).

With regard to the age of probationers and their status of supervision, there is a tendency for revocation rates to fall as the age of the probationer increases. As can be viewed in Table 22, one out of every five (20%) probationers under 21 has been revoked. This rate drops to 13% for those aged 21-30 and declines steadily to two percent (2%) for those probationers over 50 years of age.

Table 22  
Percent distribution of probationers by their status of supervision and their age at sentencing

Probationer's age at sentencing	Status of supervision:					Total
	Still on pro- bation	Com- pleted term	Ab- sconded	Revoked	Other	
Under 21 years	55%	15%	9%	20%	1%	100%
21-30	54	23	8	13	2	100
31-40	51	24	11	12	1	100
41-50	63	17	8	10	1	100
Over 50	54	42	1	2	1	100

Note: This table was computed using only those cases where supervision status and age were ascertained which occurred in 97% of the cases.

There is no similar relationship between the age of probationers and their inclination to abscond. While the oldest probationer group (those over 50) have the lowest rate of absconding (1%), probationers in the other age groups abscond 8-11% of the time.

## 2.10 Summary

This chapter underscores the need to have information on characteristics of probationers and their offenses in order to understand the task with which probation agencies are confronted. Supervising a population of employed, middle aged probationers is much different from supervising a group of unemployed youth. The former can just about take care of themselves while the latter represent a considerable workload problem.

While the group characteristics of probationers affects a probation agency's workload demands, it is useful to remember the probationer's own individual responsibility in meeting the demands and trust place on him/her by the court. Probation represents a second chance, an opportunity that is seized by some and squandered by others. The demands of that second chance vary and the focus of the next chapter is an examination of the special conditions imposed on probationers by the court.

### Footnotes

1. For the purposes of this study the analysis examines the age of the probationer at the time of sentencing, an event that took place for nearly all of these probationers in 1983.
2. These average estimated salaries were computed by taking the average hourly wage and multiplying it by 40 (for a 40 hour work week) and then by 52 (for 52 weeks in the year).
3. The use of jail as a sanction imposed for new arrests or as the outcome of probation disciplinary hearings is addressed in the chapter dealing with probationer discipline.
4. Some jurisdictions, such as Maryland, may continue to show probationers who are sentenced to prison on new offenses as active cases. Such a circumstance arises when the person has a long probation term that may still be viable after the person serves the prison term. The study reclassified such cases as "revoked" whenever they arose.
5. The analysis did not attempt to identify probationers who absconded and subsequently came back under probation supervision or who were subsequently revoked. Such probationers are tabulated under the status of supervision categories other than "absconded."



## Chapter 3: CONDITIONS OF PROBATION

### 3.1 Overview

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 impositions are basic to daily living and they 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 advised of the need to report to their probation officers as specified and to permit their probation officers to visit them at home or elsewhere.

These types of conditions provide the boiler plate for the contract between the probationer and the probation agency. The focus of this chapter, however, goes beyond these basic conditions of probation. This chapter examines conditions that place greater demands upon probationers, beyond what one would expect of a citizen at large. Some of these conditions are 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 drug and alcohol treatment. These "extra" conditions are broken into two general categories -- behavioral and financial. This chapter examines the extent to which these extra conditions are imposed and the degree to which probationers comply with them.

### 3.2 Behavioral Conditions

The study's probation questionnaire sought information on the following types of behavioral conditions:

- Placement in a community residential program
- Participation in an alcohol or drug treatment program
- Participation in a mental health treatment program
- Submission to drug testing, and
- Performance of 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, represent an effort wherein probationers must account for their presence 24 hours a day. Probationers in a community residential program live a 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 by which time they must return.

Participation in mental health treatment or drug and 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 residential care. The questionnaire did not attempt to detail the type of treatment ordered, except in regard to drug and alcohol treatment where information was sought on whether the treatment was residential or non-residential.

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 whether such drug testing was carried out at random or on a fixed schedule. Information was only sought on whether this condition was imposed and how well probationers complied with it.

These behavioral conditions are tied to probationers' activities in the community. There is another condition that felony courts employ that isolates probationers from the community for relatively short periods of time -- that condition is jail. The jail sanction does not receive attention in this part of the analysis because it is a condition that is usually met before probationers are released back into the community and the focus of attention here is on probationer behavior in the community, not in a secure institution.

The imposition of these conditions that affect probationer behavior in the community may involve the use of resources beyond those of the probation agency itself. For example, community residential programs are usually operated by private organizations under contract to the county or the state. Consequently, the probation agency may not directly operate the program geared to the behavioral condition imposed. The role that all probation agencies do play, however, is to monitor probationers' compliance with these conditions.

### 3.3 Prevalence of Behavioral Conditions

Four out of every ten felony probationers (40%) have at least one of the selected behavioral conditions imposed upon them (Table 23). The most frequently ordered condition is for the probationer to undergo drug or alcohol treatment. Nearly one out of every four probationers (23%) receive this condition. The second most frequently imposed condition is drug testing which is imposed on 14% of the probationers. Much research and discussion have taken place dealing with the problem of drug addicts and crime. It would appear from the prevalence of the use of drug testing and treatment in probation that the court is attempting to address the problem (drug usage) that contributed to the probationers criminal behavior.

Table 23  
The rate at which behavioral conditions are imposed on probationers  
by jurisdiction.

Jurisdiction	Percent of proba- tioners with be- havioral condi- tion	Community residen- tial place- ment	Drug/ alcohol treat- ment	Drug testing	Commun- ity service	Mental health treat- ment	Other
Total	40%	3%	23%	14%	9%	7%	3%
Baltimore City	37	0	8	0	0	1	31
Baltimore County	47	0	25	0	0	8	26
Dade County	16	1	8	0	4	3	0
Davidson County	33	1	3	1	23	6	0
Denver	51	36	27	39	3	2	0
Jefferson County	25	0	16	0	5	6	0
Jefferson Parish	14	0	6	2	4	2	0
Kane County	8	1	3	0	6	0	0
Lancaster County	87	2	79	52	4	8	0
Los Angeles	24	0	9	10	7	3	0
Lucas County	37	0	30	6	4	2	0
Maricopa County	84	3	58	36	26	17	0
Milwaukee County	42	3	28	14	4	7	0
New Orleans	30	0	11	3	6	2	0
Oklahoma County	13	0	9	5	2	4	0
Riverside County	69	1	34	41	13	18	0

Note: The sum of the different types of conditions imposed will exceed that found in the column, "Percent of cases with behavioral condition," because the court can, and does, impose more than one condition on a particular probationer. The "other" category includes such conditions as drug testing and community service.

Community service is another fairly frequently used condition, being imposed on 9% of the probationers. The remaining conditions of mental health treatment and community residential placement experience marginal use. Mental health treatment is imposed on only seven percent (7%) of the probationers and rarer still is the imposition of community residential placement (3%).

The "other" category includes a number of behavioral conditions such as drug testing and community service. This category was created to accomodate the information provided on probationers from Baltimore

City and Baltimore County. The information on these probationers came from a computerized data base that did not distinguish among the different behavioral conditions but rather just indicated that some special condition, such as drug testing or community service was imposed.

These conditions are not mutually exclusive. A probationer may receive more than one condition and for this reason the sum of the percentages found with each type of condition will exceed the figure found with the percent of probationers with behavioral conditions. Indeed, of those probationers receiving behavioral conditions, four out of ten receive two or more conditions.

The frequency with which these behavioral conditions are imposed upon probationers varies substantially among the jurisdictions participating in this study. As can be observed in Table 23, behavioral conditions are a factor in only eight percent (8%) of the probation cases in Kane County compared to 87% of those in Lancaster County. The rate at which these behavioral conditions are imposed also varies between neighboring jurisdictions such as Baltimore City and Baltimore County (37% versus 47% respectively) and New Orleans and Jefferson Parish (30% versus 14% respectively).

Not only does the rate at which these conditions are imposed vary among jurisdictions, but the type of behavioral condition imposed also evidences considerable variation. The reliance on community residential placement is very pronounced in Denver where better than one out of three probationers (36%) must participate in such programming. In half of the remaining jurisdictions community residential placement is a consideration in only one to three percent (1-3%) of probationers while in the other half it is not a factor at all.

Denver not only makes extensive use of community residential placement but it also relies fairly heavily on drug and alcohol treatment (27% of the probationers have this condition imposed). In many instances the drug and alcohol treatment is provided in conjunction with the community residential placement.

Drug and alcohol treatment is imposed extensively in Maricopa County (58%) and Lancaster County (79%).<sup>1</sup> Five other jurisdictions exhibit fairly frequent use of this condition -- Baltimore County (25%), Denver (27%), Milwaukee County (28%), Lucas County (30%), and Riverside County (34%). Among the remaining jurisdictions, the rate of imposing drug and alcohol treatment ranges between 3% and 16%.

Four of the jurisdictions that rely on drug and alcohol treatment also make extensive use of drug testing as well. In Denver, Lancaster County, Maricopa County, and Riverside County, the frequency with which this condition is imposed ranges between 36% and 52%. While not as extensively employed as in these jurisdictions, Los Angeles and Milwaukee County make moderate use of this condition (10% and 14% respectively). Among the remaining jurisdictions, drug testing is ordered infrequently or not at all.

The concept of making offenders pay for their crimes by providing services to the community is relatively new. Yet, as shown in Table 23, all of the jurisdictions evidence some reliance on this condition of probation (even in Baltimore City and Baltimore County where this condition is included within the "other" category). The extent of this reliance varies, however. In Davidson County and Maricopa County the frequency with which this condition is extensive (23% and 26% respectively). Nearly all of the remaining jurisdiction impose this condition at a rate ranging between two percent (2%) and seven percent (7%),

except Riverside County where the rate is substantially higher at 13%.

Ordering the probationer to mental health treatment occurs with substantial frequency in only two jurisdictions -- Maricopa County (17%) and Riverside County (18%). Five jurisdictions make moderate use of this condition imposing it six to eight percent (6-8%) of the time while the remaining jurisdictions have this condition ordered infrequently or not at all.

There is, therefore, a strain of idiosyncrasy characterizing the imposition of these selected behavioral conditions on probationers across these jurisdictions. A few jurisdictions rely heavily on a particular condition that finds marginal use among the remaining jurisdictions so that what is a major aspect of probation in one jurisdiction, such as community residential placement in Denver, is not a prominent feature of probation among the remaining jurisdictions. This development reflects the local decisionmaking that affects most of criminal justice. Behavioral conditions such as the ones discussed here can only be ordered if there are operating programs to carry them out. Resources must be made available in order to make such programs operational. Because each jurisdiction makes its own decisions as to what programs are to be funded, it is not particularly surprising to see the variety in the use of the various conditions imposed by the court on probationers across jurisdictions.

### 3.4 Behavioral Conditions by Crime of Conviction

The imposition of behavioral conditions varies substantially based on the crime on which the probationer was convicted and sentenced to probation. As can be observed in Table 24, those convicted of rape have the highest rate for the imposition of behavioral conditions (67%). This one-and-a-half times more frequent use of behavioral

conditions over the average is attributable to the imposition of mental health programming. That condition is imposed on nearly half of the probationers convicted of rape (46%).

Probationers convicted of homicide and aggravated assault exhibit the next highest rates for the imposition of behavioral conditions (44% and 49% respectively). Four out of ten probationers sentenced on the non-violent crimes of burglary and larceny have behavioral conditions imposed upon them. Only 36% of those probationers convicted of robbery or drug trafficking received behavioral conditions.

Table 24

The rate at which behavioral conditions are imposed on probationers by their crime of conviction

Jurisdiction	Percent of proba- tioners with be- havioral condi- tion	Community residen- tial place- ment	Drug/ alcohol treat- ment	Drug testing	Commun- ity service	Mental health treat- ment	Other
Total	40%	3%	23%	14%	9%	7%	3%
Homicide	44	5	21	14	10	16	2
Rape	67	5	24	12	6	46	6
Robbery	36	3	16	9	5	5	11
Aggravated assault	49	4	28	17	9	14	1
Burglary	41	4	28	15	10	6	3
Larceny	40	2	22	11	12	7	2
Drug trafficking	36	1	19	19	8	1	1

Note: The sum of the different types of conditions imposed will exceed that found in the column, "Percent of cases with behavioral condition," because the court can, and does, impose more than one condition on a particular probationer.

Interestingly enough, there is no dominant use of drug testing or treatment for those probationers convicted of drug trafficking. Drug traffickers have the second lowest rate (19%) for the imposition of drug or alcohol treatment. This rate falls below the average found for all probationers (23%). Although probationers convicted of drug trafficking have the highest rate for the imposition of drug testing



(19%), that rate is not that much higher than those found among many of the other crime of conviction categories; i.e. aggravated assault (17%), burglary (15%), and homicide (14%).

The rate at which community service is imposed stays within a fairly tight range among the crime of conviction categories (5-12%) with those convicted of larceny having the highest rate (12%). Mental health treatment, on the other hand, is principally imposed on those probationers convicted of a violent crime. In addition to the high rate already noted for probationers convicted of rape (46%), mental health treatment is ordered for 16% of those probationers convicted of homicide and 14% of those convicted of aggravated assault.

### 3.5 Compliance with Behavioral Conditions

The next area of inquiry is that of probationers' performance in meeting the selected behavioral conditions imposed upon them.<sup>2</sup> As displayed in Table 25, the majority of probationers with behavioral conditions have either satisfied the condition (37%) or are making progress toward meeting the condition (25%). Three out of eight probationers who received behavioral conditions (37%) have made no progress at all toward meeting the condition.

Table 25  
Percent distribution of probationers by their progress toward meeting behavioral conditions and their supervision status

Supervision status	Progress toward meeting condition:		
	Satisfied	Making progress	No progress
Total	37%	25%	37%
Still on probation	42	40	18
Completed term	82	4	14
Absconded	4	4	92
Revoked	14	6	80

Note: This table was computed using only those cases where information on the probationer's progress toward meeting conditions was available which occurred in 68% of the cases.

This poor performance in making no progress on the imposed conditions is largely attributable to the dismal performance of probationers who absconded or who were revoked. Nine out of ten probationers who absconded (92%) made no progress at all toward meeting the behavioral conditions imposed upon them and eight out of ten probationers who were revoked (80%) were equally negligent.

Although the performance record is considerably better for those probationers who are still under supervision or who have completed their probation terms, there is, nonetheless, a sizeable portion that have failed to make any progress in meeting the behavioral conditions imposed upon them. One out of every seven probationers who completed their term (14%) made no progress in meeting the behavioral conditions imposed on them and 18% of those who were still under supervision ("still on probation") evidenced a similar failure to comply.

This failure to comply with court ordered conditions does not necessarily go unrecognized. The fact that probationers remain on probation or even complete their term in the face of failure hints that sanctions, other than revocation, may be utilized to deal with probationer shortcomings. Information on these other sanctions is presented later in this report.

The focus now turns to how well probationers performed in meeting each of the various types of conditions imposed. As can be observed in Table 26, probationers were best able to conform with the drug testing mandate. Nearly seven out of ten probationers (69%) ordered to submit to drug testing either satisfied the condition (42%) or were making progress toward satisfying the condition (27%). Thirty-one percent (31%) of the probationers ordered to drug testing made no progress in meeting the condition.

The remaining conditions had a fairly tight range in the percentage of probationers making no progress in meeting the condition (37-39%), except for those who had to undergo mental health counseling where two out of three probationers (66%) have made no progress in meeting this condition.

Among these conditions, community residential placement stands out for the high percentage of probationers (54%) who satisfied this condition. This is attributable to the fact that probationers are generally ordered to six months or less in a community residential facility and the placement takes place at the front end of the probation term. The other conditions, meanwhile, tend to be ongoing activities that can stretch out over the entire probation term.

Table 26  
Percent distribution of probationers by their progress toward meeting behavioral conditions and the type of behavioral conditions imposed

Type of condition imposed	Progress toward meeting condition:		
	Satisfied	Making progress	No progress
Total	37%	25%	37%
Community residential	54	7	39
Drug/alcohol treatment	37	26	38
Drug testing	42	27	31
Community service	33	30	37
Mental health counseling	31	2	66

Note: This table was computed using only those cases where information on the probationers progress toward meeting behavioral conditions was available which occurred in 67% of the cases.

With regard to community service, there is no strong pattern evident between the number of hours of community service to be performed and probationers' progress in meeting that condition. As illustrated in Table 27, the worst record in meeting the community service condition falls upon those probationers who were ordered to 50-99 hours. Three out of five (61%) of those probationers ordered to

50 to 99 hours of community service failed to make any progress in meeting that condition. In contrast, only nine percent (9%) of those probationers ordered to 200 to 499 hours of service failed to make any progress. Even probationers ordered to 500 or more hours of community service performed better than those ordered to 50-99 hours, with only one out of four of these probationers (25%) failing to make any progress. The motivation of the probationer, rather than the size of the burden, would appear to be a factor influencing how well probationers meet this court ordered obligation.

Table 27  
Percent distribution of probationers by their progress toward meeting their community service condition and the number of hours that must be performed

Number of hours ordered to community service	Progress toward meeting condition:		
	Satisfied	Making progress	No progress
Total	34%	30%	36%
1-49 hours	78	9	13
50-99	18	22	61
100-199	21	63	16
200-499	79	12	9
500 or more	0	75	25

Note: This table was computed using only those cases where the number of hours of service imposed was ascertained, a circumstance that occurred in 73% of the cases with this behavioral condition.

### 3.6 Financial Conditions

There is a basic appeal in having convicted offenders literally pay for their crime. These payments can take many forms and this study organized them as follows:

- Fines
- Court fees
- Probation supervision costs
- Monetary restitution to the victim
- Payment to a victim compensation fund
- Other

Fines are penalty assessments imposed on convicted felons for the offenses that they committed. These payments are made to the state because of the disruption that the offense brought to the general social order. Monetary restitution to the victim, on the other hand, involves a payment on the part of the offender to the victim directly so as to offset some or all of the financial loss incurred by the victim as a consequence of the offense. The use of restitution in probation is a relatively new phenomenon.

Another new development is having the offender make a payment to a state victim compensation fund. This is not a payment to the victim who was directly affected by the crime committed by the probationer but rather it is a payment that helps offset the operating costs of a program directed at all victims.

Court fees may be assessed against the probationer so as to recover part of the costs associated with trying the probationer's case in court. Depending on how a jurisdiction views public defender costs, the cost of the probationer's defense may show up here or in the "Other" category.

Finally, a number of jurisdictions have introduced efforts to have probationers pay for part of their probation supervision costs. These costs tend to be assessed at a monthly rate so that the total cost assessment is directly related to the term of supervision. These costs have been adjusted where these monthly rates are invoked to reflect probationers' exposure to probation up to the time the questionnaire was completed. Consequently, the figures shown for this category reflect what has been assessed to date and not the total liability.

The agency responsible for the actual collection of these various assessments varies among jurisdictions. In some places, the court

clerk may be responsible for collecting these monies while in other places the burden may fall directly upon the probation agency itself. In any event, the responsibility for monitoring probationers' compliance with these financial obligations lies with the probation agency. Consequently, probationers' files contain information on the extent to which these financial conditions exist, how much is assessed, and how well probationers are doing in meeting these obligations.

### 3.7 Extent of Financial Assessments

Two-thirds (67%) of those persons sentenced to probation had some type of financial assessment levied against them. As shown in Table 28, one-third (34%) of the probationers are ordered to pay probation supervision costs, making that assessment the most prevalent levy imposed by the court. Court fees and monetary restitution to the victim are also in prominent use. Each of these assessments is ordered for 32% and 28% of the probationers respectively. Fines, assessments for victim compensation programs, and "other" levies are used sparingly. Payments to a victim compensation fund affect 13% of the probationers, with "other" assessments affecting another nine percent (9%) of the probationers. Seven percent (7%) of all probationers are ordered to pay fines.

As with behavioral conditions, these financial assessments are not mutually exclusive. Probationers may have more than one assessment levied against them and for this reason the sum of the percentages found with each type of assessment will exceed the figure found with the percent of probationers with financial conditions. Indeed, three out of every four (75%) probationers with financial assessments received two or more different levies.

The frequency with which financial assessments are imposed on

probationers varies substantially among the jurisdictions participating in this study. A few jurisdictions levy assessments against just about every probationer -- Lucas County (100%), Davidson County (99%), Oklahoma County (99%), and Lancaster County (98%). Other jurisdictions evidence a much lower usage pattern -- Los Angeles (30%) and Jefferson Parish (32%). The rate at which the remaining jurisdictions impose financial assessments ranges from 49% in Baltimore City to 89% in Kane and Milwaukee Counties.

Table 28  
The rate at which financial conditions are levied on probationers  
by jurisdiction

Type of financial condition:

Jurisdiction	Probation- ers with financial condition	Fine	Court fees	Proba- tion super- vision costs	Restitu- tion to the victim	Victim compen- sation fund	Other
Total	67%	7%	32%	34%	28%	13%	9%
Baltimore City	49	0	35*	0	21	0	0
Baltimore County	61	0	44*	0	25	0	1
Dade County	84	2	0	81	15	0	0
Davidson County	99	3	99	85	18	78	1
Denver	76	1	69	68	32	71	3
Jefferson County	82	0	43	63	27	16	0
Jefferson Parish	32	19	27	2	13	2	3
Kane County	89	13	87	3	16	1	0
Lancaster County	98	6	98	0	75	0	0
Los Angeles	30	11	0	5	10	0	11
Lucas County	100	9	93	0	57	0	0
Maricopa County	82	7	23	71	56	1	6
Milwaukee County	89	3	70	1	43	22	34
New Orleans	74	13	34	0	26	9	45
Oklahoma County	99	4	98	93	10	93	1
Riverside County	59	23	4	10	33	1	2

\*The record system used in ascertaining the imposition of financial conditions appears to have combined the fine information within the court fee category.

Note: The sum of the different types of financial conditions imposed will exceed that found in the column "Cases with financial condition," because the court can, and does, impose more than one type of assessment on a particular probationer.

As found with the use of behavioral conditions, there is a strain of idiosyncrasy among the participating jurisdictions as to the frequency with which particular financial assessments are imposed. While some jurisdictions may rely heavily on a particular assessment, the others will show marginal or minimal use of that same assessment. Having probationers pay for their supervision costs, for example, is employed in six jurisdictions -- Jefferson County (63%), Denver (68%), Maricopa County (71%), Dade County (81%), Davidson County (85%), and Oklahoma County (93%), but is rarely imposed, if at all, in the other jurisdictions.

Court fees and monetary restitution to the victim, however, do find fairly wide use among all of the jurisdictions. Restitution, for example, is a financial assessment made use of in all of the participating jurisdictions, but there is a wide range in the frequency with which it is ordered. In Lancaster County, 75% of the probationers are ordered to pay resititution, while in Los Angeles and Oklahoma County, only 10% of the probationers are so ordered. Similarly with court fees, four jurisdictions have this condition imposed on better than 90% of their probationers -- Davidson County (99%), Lancaster County (98%), Oklahoma County (98%), and Lucas County (93%). Many of the other jurisdictions make moderate to heavy use of this assessment while Los Angeles and Dade County do not use it at all.

### 3.8 Average Assessments

The total average assessment imposed on probationers with financial conditions is \$1,339.<sup>3</sup> As illustrated in Table 29, these average dollar assessments fluctuate substantially among the various types of financial conditions used. The average assessment for court fees is only \$130. From this low, the average assessments range up to



a high of \$1,817 for restitution to the victim. <sup>4</sup>

Table 29  
The average dollar assessments levied on probationers receiving  
financial conditions by jurisdiction

Jurisdiction	Average assessment for each type of financial condition:						
	Average total assessment per probationer	Fine	Court fees	Proba- tion super- vision costs	Resti- tution to the victim	Victim compen- sation fund	Other
Total	\$ 1,339	\$ 625	\$ 130	\$ 356	\$ 1,817	\$ 226	\$ 270
Baltimore City	282	0	160*	0	486	0	40
Baltimore County	481	0	197*	0	681	0	1,500
Dade County	833	2,430	0	356	2,263	500	0
Davidson County	1,331	1,353	198	247	1,744	832	1,181
Denver	607	750	15	99	997	80	190
Jefferson County	878	250	50	590	1,221	10	0
Jefferson Parish	1,446	630	95	154	2,287	52	550
Kane County	535	1,139	74	108	1,625	465	0
Lancaster County	660	2,033	123	0	592	0	0
Los Angeles	3,229	620	183	459	5,609	100	267
Lucas County	1,612	315	129	0	2,497	0	0
Maricopa County	1,263	442	211	384	1,184	341	283
Milwaukee County	981	347	109	94	1,634	183	144
New Orleans	770	423	83	74	1,009	12	422
Oklahoma County	507	316	141	242	1,288	31	250
Riverside County	1,509	521	132	1,641	1,852	200	250

\*The record system used in ascertaining the imposition of financial conditions appears to have combined the fine information with the court fee category.

Note: The average amount of money presented for each of the types of financial conditions imposed is computed by taking the sum of the total amount assessed and dividing by the number of probationers receiving the assessment. Because the number of probationers receiving a particular assessment varies among each of the types of financial conditions, these average sums will not add up to the average total assessment per probationer.

The high average assessment for restitution to the victim tends to be inflated by the presence of institutional victims, such as banks, hospitals, and government. These institutional victims incur large losses in the crimes committed against them, much larger than what a private citizen is likely to suffer. For example, there was one case

from Los Angeles where the probationer was ordered to pay \$67,800 in restitution to the county. Such high assessments skew the average assessments for victim restitution upward. This development, therefore, distorts the picture of what individual victims are likely to receive in the way of restitution.

The average assessment imposed on probationers varies substantially among the participating jurisdictions. The average assessments range from a low of \$282 in Baltimore City to a high of \$3,229 in Los Angeles. Among the particular types of financial conditions imposed only "Court fees" shows a relatively tight range. There the average assessment ranges from a low of \$15 in Denver to a high of \$211 in Maricopa County. Among the other types of financial conditions, wide ranges exist among the participating jurisdictions in terms of the average assessments levied. Fines, for example, ranged from a low of \$250 in Jefferson County to a high of \$2,430 in Dade County.

### 3.9 Payments

Probationers pay off more than one quarter (27%) of the assessments levied against them.<sup>5</sup> As shown in Table 30, an average of \$368 is collected from probationers who are assessed some financial condition. The average payments by probationers varies among the participating jurisdictions, ranging from a low of \$124 in Baltimore City to a high of \$815 in Los Angeles.

There is a tendency for jurisdictions that impose low to moderate average assessments to experience higher rates for the percent of the assessment paid. For example, in Kane County, Oklahoma County, and Lancaster County the average assessments range between \$507 to \$660. The probationers in these counties pay off more than half of their assessments (52% to 59%). In Lucas County and Davidson County the

average assessments are much higher (\$1,612 and \$1,331 respectively) but their percents of the assessment paid are lower (14% and 20% respectively) than those found in Kane and Lancaster Counties.

Table 30  
The percent of assessment paid by probationers along with dollar assessments and payments by jurisdiction

Jurisdiction	Percent of assess- ment paid	Average dollar assessment	Average dollar payment
Total	27%	\$ 1,339	\$ 368
Lucas County	14	1,612	218
Davidson County	20	1,331	260
Riverside County	24	1,509	361
Los Angeles	25	3,223	815
Jefferson Parish	28	1,446	402
New Orleans	31	770	238
Dade County	31	833	262
Baltimore City	34	366	124
Maricopa County	37	1,263	468
Denver	40	607	241
Baltimore County	48	481	229
Jefferson County	48	878	426
Kane County	52	535	280
Oklahoma County	55	507	279
Lancaster County	59	660	389

Note: No data were available on payments from Milwaukee County, so that jurisdiction is not displayed in this table.

This pattern, however, does have its exceptions, most notably in Los Angeles. In Los Angeles, the average dollar assessment is the highest among the jurisdictions (\$3,223) and yet it has a fairly respectable 25% for its percent of assessments paid. As noted earlier, however, Los Angeles evidenced some extraordinarily high restitution assessments. Some of these high assessments were paid and these payments skew the payment data from Los Angeles.

Among the various assessments imposed on probationers, fines evidence the highest rate of payment. As can be observed in Table 31, an average payment of \$366 represents a 59% payment rate on the

average fine assessment of \$625. Court fees also experience a fairly high payment rate of 54% followed by a 40% payment rate for probation costs. The assessment with one of the lowest payment rates is found with restitution to the victim (24%).

Table 31

The percent of assessment paid by probationers along with the average dollar assessments and payments by type of financial condition imposed

	Percent of assess- ment paid	Average dollar assessment	Average dollar payment
Fine	59%	\$ 625	\$ 366
Court fees	54	130	71
Probation costs	40	356	143
Restitution	24	1,817	438
Victim compensation fund	32	226	73
Other	21	270	58

Despite its low payment rate, victim restitution does have the highest average payment (\$438) among the various types of assessments levied. However, restitution to the victim can resemble a lottery with only 24% of the assessment being paid off. Some victims do very nicely and receive all of their court ordered restitution but far many more receive little or nothing. There would appear to be an equity issue with restitution that needs to be addressed by the criminal justice system. The issue promises no easy resolution but is certainly deserving of attention.

Table 32 presents information on the percentage of the assessment paid by the total amount assessed against the probationer. There is a fairly high percentage of probationers (26%) who make no payment at all on their court imposed assessments. This finding holds regardless of the size of the assessment. Nearly three out of every ten probationers (28%) assessed less than \$100 have made no payment at all toward that modest sum. This percentage for probationers making no payment at all remains high among the various assessment categories, ranging between

23% to 30%.

Table 32  
The percent distribution of probationers with financial conditions by the average dollar assessment and the percent of assessment paid

		Dollar amount assessed:					
Percent of assessment paid	Total	Less than \$100	\$100- 249	\$250- 499	\$500- 999	\$1,000 -4,999	\$5,000 or more
None	26%	28%	30%	23%	25%	24%	27%
1 - 9 percent	6	0	2	3	7	16	21
10-24	9	4	4	7	12	12	26
25-49	14	11	9	12	20	17	11
50-74	10	3	6	19	9	11	3
75-99	9	1	9	7	12	11	9
100	27	53	40	29	15	9	3

On the other hand, Table 32 does show a strong relationship between the number of probationers who have made total payment of their assessments and the amount of money assessed; i.e. the percentage of probationers having paid off all of their assessment is highest among those assessed the smallest amount of money and decreases consistently as the dollar assessments increase. While more than half of the probationers (53%) assessed less than \$100 have paid off their entire assessment, only three percent (3%) of those probationers assessed \$5,000 or more have been able to pay off all of their assessments to date. Those with the highest assessments (over \$1,000) evidence difficulty in paying off 50% or more of their assessments. Thirty-one percent (31%) of those assessed \$1,000-4,999 and 15% of those assessed \$5,000 or more are able to pay off half or more of their assessment. This contrasts with those probationers who are assessed less than \$250 where 57% of those who are assessed less than \$100 and 55% of those who are assessed \$100-249 are able to pay off half or more of their assessment.

### 3.10 Employment Status and Payments

Probationers' ability to make payments on the financial assessments made against them is affected by their ability to make money. As can be observed in Table 33, probationers' employment status affects the judge's decision to order financial assessments in two ways -- the frequency with which the financial conditions are imposed and the amount of money assessed. Six out of seven probationers (85%) who work full time have financial conditions imposed upon them while only two-thirds of those probationers (66%) who are unemployed find themselves similarly situated. Sandwiched in between are those probationers who work part time. These probationers have financial conditions imposed on them 77% of the time.

Table 33  
Percent of probationers with financial conditions along with the average dollar assessments and payments by the employment status of the probationer

	Probationer's employment status:		
	Full time	Part time	Unem- ployed
Percent with financial condition	85%	77%	66%
Average dollar assessment	\$1,570	\$ 964	\$ 854
Average dollar payment	\$ 572	\$ 240	\$ 104
Percent of assessment paid	36%	25%	12%

The average assessment imposed is highest for those probationers who work full time. These probationers are assessed an average of \$1,570 which is substantially higher than that found for those probationers who are unemployed or who work part time. As with the rate at which financial conditions are imposed, probationers who work part time have the next highest assessment (\$964) followed by those who are unemployed (\$854).

With regard to payment on the court imposed assessments, Table 33 shows those probationers who work full time with the highest percentage

share of assessment paid (36%). This percentage drops to 25% for those who work part time. Even though only 12% of the assessment imposed on probationers who are unemployed is paid, it is curious how a person without work is able to come up with an average payment of \$104.

Table 34 illustrates the relative distribution of probation cases receiving financial conditions by the total amount assessed and the probationer's employment status. An expected pattern develops in Table 34. Probationers with full time work have high percentage shares in the higher assessment categories (\$500 or more) while those probationers who are unemployed tend to be concentrated in the lower assessment categories (less than \$250).

Table 34  
Percent distribution of probationers receiving financial conditions  
by the dollar amount assessed and their employment status

Dollar amount assessed	Probationer's employment status:		
	Full time	Part time	Unem- ployed
Less than \$100	12%	11%	19%
\$100-249	17	23	40
\$250-499	22	25	16
\$500-999	20	21	11
\$1,000-4,999	24	18	12
\$5,000 or more	5	2	2

Table 35 displays the distribution of probation cases receiving financial conditions by the percentage of the assessment paid and the employment status of the probationer. Overall there are no major surprises in this table. More than one-third of the probationers with full time work (35%) have paid off their entire assessment in contrast to only 21% of those who are unemployed. On the other end of the spectrum, 44% of those without work and 24% of those with part time work have made no contribution to their assessment in contrast to only 10% of those probationers who work full time.

It is useful to remember that the average wage for a probationer working full time is modest, with many earning the minimum wage. So even though some probationers may be working full time, that does not mean that they have the cash to meet these court imposed financial penalties.

Table 35  
Percent distribution of probationers by the percent of assessment paid and their employment status

Percent of assessment paid	Probationer's employment status:		
	Full time	Part time	Unem- ployed
Total	100%	100%	100%
None	10	24	44
1- 9 percent	5	7	7
10-24	7	10	4
25-49	15	17	9
50-74	14	7	9
75-99	15	6	6
100	35	29	21

### 3.11 Summary

There is widespread use of behavioral and financial conditions in probation but these conditions meet with varying degrees of success among probationers. It is somewhat reassuring that the rates of compliance are fairly high among those who have completed probation or are still under supervision. Expectations for generating revenue out of probationers needs to be tempered as well. There is less than full employment among probationers and even when they are employed there still is difficulty in getting them to pay all of their assessments. There is the need to make financial conditions credible, especially for those probationers who are marginally employed or unemployed.



Footnotes:

1. The vast majority of probationers placed in drug and alcohol treatment programs are in a non-residential status. Only 13% of the probationers receiving this condition are placed in a residential setting.

2. As noted in Table 25, information on probationers' progress in meeting the behavioral conditions imposed upon them was available in only 67% of the cases. One reason for the lack of information on this matter is how probation departments administratively handle their files. Probationers who abscond have an ambivalent administrative status within the probation agency. The case is still open but there is no probationer to be supervised. There is no pressing need to update the file routinely on such matters as how well the probationer is complying with the conditions of probation so the fact that 36% of the probationers who have absconded have no information on how they are doing with their special conditions comes as no surprise. With regard to those probationers who are still under active supervision, there is a tendency among probation officers to wait until the end of the probationer's term before rendering a judgment on how well the probationer is meeting the selected conditions imposed upon them. This is especially true if the condition involves another agency such as a counseling center. While probation officers are usually informed of probationers who are not complying with court ordered participation, routine communication may not occur if probationers are actively participating in the program. Such a development helps explain why information on how probationers are doing in meeting their conditions is missing for 43% of the probationers who are still under active supervision.

3. The study's probation questionnaire sought information on whether or not the original court ordered assessments were amended. Amendments took place in less than ten percent of the cases and generally tended to be minor. To simplify the analysis and presentation of the data, the report uses the amended amounts, not the originally ordered amount. Also, in a number of instances the probationer was assessed at a fixed rate per month, for example, \$10 per month for probation supervision fees. The amount assessed was computed by multiplying this assessment by the number of months the person was on probation, not by the person's probation term.

5. This pay off rate may be understated because of the large percentage of probationers who were still under supervision. While these probationers will no doubt continue to make some payments on their assessments, there will, nonetheless, remain a considerable gap between what is assessed and what is actually paid. The data collected in this effort, while not complete, still provides useful information on who gets assessed and the gap between assessments and payments.

## Chapter 4: PROBATIONER DISCIPLINE

### 4.1 Introduction

As has just been documented, probationers do not always meet the conditions of their probation. Even though probation officers may take the initiative to try to obtain compliance from the probationer, they are limited in what they can do. Probation officers are able to take such measures as intensifying their supervision of the probationer but probation officers are not able to change, unilaterally, the conditions of probation nor are probation officers able to revoke probation on their own authority. Such actions require formal proceedings, probation disciplinary hearings, that are held before a judge or a duly appointed hearing officer. Based on the facts presented at such probation disciplinary hearings, the judge or hearing officer decides what should be done to the offending probationer.

Probationers can pose a disciplinary problem not only in their failure to meet their conditions of probation but also in their failure to meet their obligations as a private citizen. Because of the broad freedom granted to probationers, there is the risk of their becoming involved in crime once again and, thus, for them to be arrested by the police. Such arrests can be handled in a variety of ways. The offending probationer can be subjected to a new criminal proceeding that results in new sanctions being imposed. Another option for the criminal justice system in handling these offending probationers is to suspend the criminal proceeding and to refer the incident to the probation agency with an eye toward invoking a probation disciplinary hearing. There is even the option of pursuing both tracks; i.e. conducting a new criminal proceeding and a probation disciplinary hearing collaterally.

The focus of this chapter, then, is to examine the extent to which disciplinary hearings are invoked as well as the extent to which probationers are arrested while under supervision. This chapter also examines the outcomes of these disciplinary hearings and arrests.

In order to provide some background on how problem probationers are dealt with, the chapter begins by presenting a case history of a particularly troublesome probationer. This case history illustrates how the criminal justice system attempts to deal with multiple violations and arrests of a non-violent offender by using a variety of sanctions before finally invoking incarceration in a state prison.

#### 4.2 A Case History

This case history, which is drawn from the files of one of the jurisdictions participating in this study, involves a probationer who was convicted of burglary. The probationer was initially sent to the jail's work furlough program and then, five weeks later, to a community corrections program operated by a private, non-profit corporation. While at the community corrections facility, the probationer failed to obey the facility's rules. In addition, he had a poor employment record. The probation officer initiated a probation disciplinary hearing process because of these shortcomings. After three months, a disciplinary hearing was held with the outcome being the probationer's placement in the county's work farm. After one month on the county work farm, the probationer was transferred back to the community corrections facility.

At the community corrections facility, the probationer once again exhibited an attitude of non-compliance with program rules and showed no interest in obtaining employment. The probation officer requested a probation disciplinary hearing, which was granted. The probation

officer sought to have the probationer revoked but the judge decided otherwise. Instead of revoking the probationer, the judge imposed an additional condition on the probationer -- that he seek mental health counseling.

One month later, the probation officer once again initiated a probation disciplinary hearing because of the probationer's failure to cooperate in the mental health counseling program as well as his failure to pay court costs, victim compensation, and probation supervision fees. The probationer was placed on bond pending the disciplinary hearing.

The probationer was on bond for three months during which time he behaved acceptably well. Consequently, the probation officer withdrew the petition to revoke.

Seven months later, the probationer was arrested on a criminal trespass charge. The probation officer initiated another petition to the court to have the probationer revoked. The disciplinary hearing was suspended until the probationer's arrest was processed in criminal court.

The probationer pled guilty to a reduced charge (going from a felony to a misdemeanor) and was given a six month suspended jail sentence and was ordered placed in a community corrections facility. With the criminal procedure completed, the probation disciplinary hearing was held (three months later). The judge once again declined to revoke the probationer. Instead the judge ordered the probationer placed in a community corrections facility for four years.

Two months later the probationer was arrested for bringing marijuana into the community corrections facility. The probation officer once again brought forth a petition to have the probationer revoked.

One month later the disciplinary hearing was held and the judge revoked the probationer, sentencing him to serve the remainder of his original sentence (approximately two years) in the state prison.

This case history is not represented as being typical. Rather the purpose for presenting it was to illustrate that each disciplinary hearing or new arrest does not necessarily result in the probationer being revoked. Other sanctions are available and are used to deal with disciplinary problems. However, as this case does show, failure of probationers to mend their ways can eventually result in their revocation.

#### 4.3 Disciplinary Hearings

Probation disciplinary hearings can be initiated on a wide range of probationer shortcomings: from their failure to get a job or to pay financial assessments, to their failure to report to the probation officer (absconding), or to new arrests. To simplify the data collection effort and the presentation of the information, this analysis differentiates only between those hearings that were precipitated either by the failure to meet the various conditions of probation or by new arrests. The analysis does not attempt to ascertain the particular conditions of probation which probationers failed to meet and thus precipitated the disciplinary hearing.

#### 4.4 Profile of Probationer and Disciplinary Hearings

Disciplinary proceedings before a judge or a hearing officer can be brought on by a violation of probation, an arrest for a new offense or both. As shown in Table 36, two out of every three probationers (67%) had no hearings at all. In those instances where there were hearings, the largest share was brought about due solely to probation

violations, a development which affected 21% of the probationers. Less than one out of ten probationers (9%) were involved in a disciplinary hearing because of a new arrest and an additional three percent (3%) had disciplinary hearings initiated because of a combination of rearrests and probation violations.

Table 36  
The percent distribution of probationers by the type of probation disciplinary hearing initiated against them and selected demographic characteristics of the probationer

	Disciplinary hearing precipitated by:			
	No hearing	Probation violation	Violation and rearrest	Rearrest
Total	67%	21%	3%	9%
Male	65	22	3	10
Female	73	18	3	6
Under 21 years of age	59	26	3	12
21-30	69	19	3	9
31-40	65	22	5	9
41-50	73	12	0	15
51 or older	92	8	0	0
Full time employment	85	7	0	7
Part time employment	58	26	5	11
Unemployed	52	30	5	13

Information on what precipitated the disciplinary hearings and probationer characteristics relating to sex, age, and employment status are also presented in Table 36. A familiar pattern emerges; i.e. those who get into trouble tend to be male, young, and unemployed. Fewer males manage to avoid disciplinary hearings than females (65% versus 73%). Males have slightly higher percentages for those probationers involved in hearings precipitated by probation violations (22% versus 18%) as well as for those precipitated by new arrests (10% versus 6%).

With age, the most notable statistic is that pertaining to

probationers over 50 years of age. Better than nine out of ten probationers (92%) over the age of 50 had no disciplinary hearings brought against them. Most of the hearings for these older probationers were for probation violations (8%) and none for rearrests. While the youngest age group (those under 21 years of age) had the highest incidence of disciplinary hearings, due mainly to probation violations (26%), there was no pattern of disciplinary hearings decreasing as the age of the probationer increased. Rather there was sharp fluctuation among those categories spanning the ages of 21 to 50. One striking difference occurs among those probationers aged 41 to 50. This is the only age group where more disciplinary hearings are precipitated because of an arrest for a new offense rather than a violation of probation (15% versus 12%).

With regard to employment status, those probationers who are working full time tend to stay out of trouble. Eighty-five (85%) percent of those probationers with full time employment had no disciplinary hearings initiated against them. When a disciplinary hearing is initiated against probationers who are employed full time they are just as likely to be brought about because of a new arrest (7%) as by a violation of probation (7%).

Those probationers working part time or not at all emulate each other with respect to disciplinary hearings. Nearly half of each group has hearings brought against them with the bulk of these hearings<sup>1</sup> attributed to violations of probation (26% and 30% respectively).

#### 4.5 Crime of Conviction

An analysis of the incidence of probation disciplinary proceedings and the crime for which the probationer was convicted reveals

substantial differences among the offense categories. As shown in Table 37, eight out of ten probationers (80%) who were convicted of homicide had no hearings brought against them. When such hearings were initiated they were mostly due to probation violations rather than arrests for new offenses (15% and 5% respectively). Probationers convicted of burglary, on the other hand, had disciplinary hearings brought against them 50% of the time and those hearings were as likely to be initiated by a violation of probation (25%) as by a new offense (21% rearrest and 3% rearrest and violation).

Table 37  
The frequency and type of probation disciplinary hearing by the probationer's crime of conviction

Crime of conviction	Disciplinary hearing precipitated by:			
	No hearing	Probation violation	Violation and rearrest	Rearrest
Homicide	80%	15%	0%	5%
Rape	72	13	1	13
Robbery	62	21	4	13
Aggravated assault	70	21	3	6
Burglary	50	25	3	21
Larceny	64	18	3	15
Drug trafficking	67	19	2	12

#### 4.6 Jurisdiction

An examination of the incidence of probation disciplinary hearings and the jurisdictions participating in this study once again reveals substantial variation. The range in the frequency with which probationers avoid disciplinary hearings is substantial as shown in Table 38. In Jefferson Parish, 90% of the probationers had no disciplinary hearings brought against them while in Los Angeles and Baltimore City, that happened to only 55% of their probationers. Both Riverside County and Los Angeles have a high frequency of disciplinary



hearings precipitated by probation violations (24% and 30% respectively) as does Kane County (29%). Baltimore City, with 22% of hearings precipitated by a probation violation, also has a high incidence for hearings precipitated by arrests for new offenses -- 21% for rearrests only and 2% for violations and rearrest. Four other jurisdictions, Lancaster County, Los Angeles, Milwaukee County, and New Orleans also have fairly high percentages, ranging from 12% to 14% for probationers being involved in disciplinary hearings due to new arrests.

Table 38  
The frequency and type of probation disciplinary hearing  
by jurisdiction

Jurisdiction	Disciplinary hearing precipitated by:			
	No hearing	Probation violation	Violation and rearrest	Rearrest
Total	67%	21%	3%	9%
Baltimore City	55	22	2	21
Baltimore County	78	14	0	8
Dade County	79	14	3	4
Davidson County	75	15	3	7
Denver	67	22	3	8
Jefferson County	32	11	1	6
Jefferson Parish	90	4	0	6
Kane County	63	29	1	6
Lancaster County	79	8	0	13
Los Angeles	55	30	4	12
Lucas County	72	16	4	9
Maricopa County	67	21	4	8
Milwaukee County	60	21	6	13
New Orleans	74	12	0	14
Oklahoma County	78	18	0	4
Riverside County	70	24	1	5

#### 4.7 Number of Hearings

The initiation of multiple disciplinary hearings against probationers is rare. Five percent (5%) of all probationers are subjected to two hearings and only one percent (1%) undergo three or

more hearings (Table 39). Among the one-third of all probationers involved in disciplinary hearings, the vast majority (27% out of 33%) were subjected to one hearing only.

Table 39  
The percent distribution for the number of disciplinary hearings initiated against probationers

Number of hearings	Percent of probationers
None	67%
One	27
Two	5
Three or more	1

An analysis of this data by the probationers' crime of conviction reveals those convicted of aggravated assault or drug trafficking to be involved in multiple hearings more frequently than those probationers convicted of the other offenses. Of those probationers subjected to disciplinary hearings, one-fourth (25%) of those convicted of aggravated assault or drug trafficking were involved in more than one hearing in contrast to the one out of ten probationers (10%) evident among those convicted of the other offenses.

#### 4.8 Time Elapsed to Disciplinary Hearings

Probationers who are prone to being a disciplinary problem make themselves known fairly quickly. The average time elapsed from the start of probation to the first disciplinary hearing is nine months. Table 40 presents the distribution of probationers subjected to disciplinary hearings by the time elapsed from the start of their probation term to their first probation disciplinary hearing. Better than three out of every seven probationers (45%) have their first disciplinary hearing within the first six months of their probation term. Another 24% have their first hearing in the following six months (months 7 to 12) of their probation term. The percentage of probationers having disciplinary hearings continues to decline the longer the

probationer remains exposed to probation, especially for those who have served more than two years of their probation term (25 months or more). Only four percent (4%) of the probationers experienced their first disciplinary hearing past the second year of their term.

Table 40  
The percent distribution for the time elapsed to the first probation disciplinary hearing by the type of hearing held

Time to first disciplinary hearing	Total	Disciplinary hearing precipitated by:		
		Probation violation	Violation & rearrest	Rearrest
0- 6 months	45%	39%	27%	78%
7-12	24	24	47	12
13-18	16	17	22	8
19-24	12	15	3	3
25 and over	4	6	0	0

Note: This table was computed using only those cases where probationers had a disciplinary hearing which occurred in 86% of the cases.

This development of disciplinary hearings occurring early in the probation term is especially striking for those whose hearings were precipitated by a violation and rearrest. Nine out of ten disciplinary hearings (90%) precipitated by a new arrest occurred within the first year of the probation term. With three quarters (78%) of the hearings taking place in the first six months of the probation term. Few (3%) disciplinary hearings due to rearrests occur past the eighteenth month of the probation term.

Disciplinary hearings precipitated by violations of probation exhibit a pattern in the time to the first hearing similar to that found for the overall average. Better than half of the hearings (63%) take place in the first year of the probation term. Although the percentages of cases drop as probationers move further into their terms, the drop off is not as sharp as that found with probationers undergoing disciplinary hearings precipitated by rearrests.

While only five (5%) percent of the probationers were subjected to two probation disciplinary hearings, nearly all of those hearings (84%) were precipitated by the probationers' failure to meet some aspect of their probation conditions. The distribution as to when the last disciplinary hearing is held is fairly even among the six month time frames discussed above, such that only 18% of the second hearings were held past the second year of the probationer's term.

#### 4.9 Hearing Outcome

To simplify the analysis of disciplinary hearing outcomes, only that information on the most serious outcome was used in those cases involving multiple hearings. The continuum employed to designate the most serious outcome was as follows: prison, jail, bench warrant, additional conditions of probation imposed, violation not substantiated, and outcome pending.

The information on the outcome of the probation disciplinary hearing is presented in Table 41. The most prevalent sanction is the issuance of a bench warrant, which occurs as the outcome in 32% of all disciplinary hearings. This is the sanction used against those probationers who abscond, and as reported earlier, absconders constitute nine percent (9%) of the probationers under supervision. The bench warrant is the tool that not only empowers probation officers to detain in jail absconders that they find but also enables the probation agency to enlist the assistance of law enforcement agencies in its own jurisdiction and across the country to detain absconding probationers if and when those law enforcement agencies come in contact with them.<sup>2</sup>

Incarceration is a prominent sanction employed in probation

disciplinary hearings. Twenty-four percent (24%) of probationers involved in disciplinary hearings are sent to prison as a consequence of the hearing. As further shown in Table 41, the percentage sent to prison is particularly high for those probationers whose disciplinary hearing was precipitated by a rearrest (35%) rather than by a violation of the conditions of probation (20%).

Table 41  
The percent distribution for the outcome of disciplinary hearing by the type of hearing held

Outcome of disciplinary hearing	Total	Disciplinary hearing precipitated by:		
		Probation violation	Violation and rearrest	Rearrest
Prison	24%	20%	18%	35%
Jail	14	12	31	13
Bench warrant	32	46	27	2
Additional condition	17	14	20	21
Not substantiated	6	5	2	10
Pending	7	3	2	18

Note: This table was computed using only those cases where information on disciplinary hearings and their outcomes were available which occurred in 99% of the cases.

Jail is utilized in 14% of the cases involving probation disciplinary hearings. Jail is used just as frequently in those instances where the disciplinary hearing was precipitated by a rearrest (13%) as by a violation of probation (12%). Jail usage is rather high for those probationers (31%) undergoing hearings initiated by rearrests and violations of probation.

Additional conditions of probation, including the imposition of additional years to the probation term, are a factor in 17% of the disciplinary hearing outcomes. Only six percent (6%) of these hearings

find the charges not substantiated. Interestingly enough, the percentage for this outcome is higher with those hearings precipitated by new arrests (10%) than that found for hearings precipitated by violations of probation (5%).

#### 4.10 Profile of Probationers and Rearrests

Information collected on probationers' arrests for new offenses differentiated between misdemeanor arrests and felony arrests. As can be observed in Table 42, nearly two out of every three probationers (66%) had no new arrests during their exposure to probation. One out of eight probationers (13%) were rearrested for misdemeanors while 21% were rearrested for felonies (4% for a mix of felony and misdemeanor arrests and another 17% for felonies only).

Table 42

The percent distribution of probationers by the type of rearrest and various demographic characteristics of the probationer

	Type of rearrest:			
	No new arrests	Misdemeanor only	Misdemeanor and felony	Felony only
Total	66%	13%	4%	17%
Male	63	13	5	19
Female	78	10	2	10
Under 21 years of age	59	14	5	23
21-30	66	13	4	18
31-40	70	12	5	13
41-50	73	12	3	12
Over 50	95	3	0	2
Full time employment	80	15	0	5
Part time employment	56	18	7	19
Unemployed	55	13	8	24

An examination of rearrests by selected characteristics of the probationer reveals substantial differences. As shown in Table 42, 78% of female probationers remained arrest free compared to only 63% of the

male probationers. Furthermore, when males do get arrested for new offenses, it is much more likely to be for a felony. A total of 24% of the male probationers get rearrested for new felonies (19% felony only and 5% for a combination of felonies and misdemeanors) in contrast to only 12% of the female probationers (10% for felony only and an additional 2% for a mix of felony and misdemeanor arrests).

An analysis of the age of the probationer and rearrests while on probation also reveals some interesting patterns. The older probationers become, the less likely they are to be arrested for new offenses. The percentage of probationers remaining arrest free grows steadily from a low of 59% for those probationers under 21 years of age to 73% for those probationers aged 41-50 and then jumping to 95% for those probationers over the age of 50.

The pattern of rearrests declining as the age of the probationer increases is particularly strong for felony arrests. Two out of seven (28%) probationers under 21 years of age are rearrested for felonies: 23% for felonies only and another five percent (5%) for a combination of felonies and misdemeanors. The percentage of probationers rearrested for felonies falls steadily over the remaining age groups, with a sharp fall off for those over the age of 50. Only two percent (2%) of these oldest probationers (over 50 years of age) are arrested for new felony offenses.

Misdemeanor rearrests also decline as the age of the probationer increases but in a less dramatic fashion. While those probationers over 50 have the lowest percentage for misdemeanor arrests (3%), the percentage of probationers rearrested for misdemeanors ranges between 12% and 14% for all of the other age categories decreasing as the age of the probationer increases.

Probationers who work full time do much better in remaining arrest free than those who work part time or not at all. Eight out of every ten probationers who work full time (80%) are arrest free in contrast to those working part time or not at all (56% and 55% respectively). In addition, when arrested, probationers who work full time are much more likely to be arrested for a misdemeanor (15%) than for a felony (5%). Probationers working part time or those that are unemployed, on the other hand, are much more likely to be arrested for a felony (26% and 32% respectively) rather than for a misdemeanor (18% and 13% respectively).

#### 4.11 Rearrest by Jurisdiction

An examination of the prevalence and type of rearrests among the jurisdictions participating in this study reveals some remarkable differences, especially among neighboring jurisdictions (see Table 43). In Baltimore City, only 45% of the probationers remain arrest free, while in Baltimore County, the figure is substantially higher at 65%. Similarly, in New Orleans 65% of the probationers remain arrest free in contrast to 90% in Jefferson Parish. In both of these instances, probation is a state function, so one can assume standard operating procedures applying in each jurisdiction within each state. Both of these examples embody the same kind of geographical relationship -- a large city surrounded by a large suburban county. Undoubtedly the rather sizeable differences in probationers' experience with rearrest is largely attributable to the composition of the probationer population being supervised along such dimensions as original crime of conviction, age, sex, employment status, etc.

Baltimore City and New Orleans also evidence much higher percentages for probationers getting arrested for felonies (43% and 23% respectively) than those found for Baltimore County and Jefferson



Parish (16% and 7% respectively). Los Angeles and Dade County also have fairly high percentages for probationers being arrested on new felonies (27% and 24% respectively). The remaining jurisdictions show a range of 7% to 19% for probationers being arrested for new felony offenses.

Table 43  
Type of rearrest by jurisdiction

Jurisdiction	Type of rearrest:			
	No new arrests	Misdemeanor only	Misdemeanor and felony	Felony only
Total	66%	13%	4%	17%
Baltimore City	45	12	16	27
Baltimore County	65	19	4	12
Dade County	72	3	1	23
Davidson County	82	3	0	15
Denver	72	14	2	12
Jefferson County	69	16	6	10
Jefferson Parish	90	3	0	7
Kane County	73	10	3	14
Lancaster County	71	21	0	8
Los Angeles	62	11	5	22
Lucas County	64	20	5	11
Maricopa County	64	17	2	17
Milwaukee County	61	20	10	9
New Orleans	65	12	2	21
Oklahoma County	76	6	1	17
Riverside County	71	16	3	10

#### 4.12 Crime of Conviction

The extent and type of new arrest also varies by crime for which probationers were originally convicted. As shown in Table 44, probationers who were convicted of homicide have the highest arrest free percentage (83%). Probationers convicted of robbery and burglary, on the other hand, have the lowest incidence for being arrest free (59% and 56% respectively). Indeed probationers convicted of robbery and burglary have the highest percentages for being arrested for new felony

offenses (26% and 30% respectively).

Table 44  
Type of rearrest by crime of conviction

Crime of conviction	Type of rearrest:			
	No new arrests	Misdemeanor only	Misdemeanor and felony	Felony only
Homicide	83%	6%	2%	9%
Rape	72	17	3	7
Robbery	59	15	7	19
Aggravated assault	73	11	3	14
Burglary	56	14	7	23
Larceny	73	11	2	15
Drug trafficking	70	12	3	16

Although there are differences in degree, probationers are arrested more frequently for new felony offenses, rather than misdemeanor offenses, within each of the crime of conviction categories except rape. What kind of felonies are these probationers committing? To address this question the study sought information on the type of felony involved in the probationer's first felony offense. Even though 37% of the probationers who were arrested for new felonies were involved in multiple felony arrests, information on the first rearrest provides a useful, though admittedly incomplete, picture of the types of felony crimes committed by probationers while under supervision.

As shown in Table 45, drug trafficking and the property offenses of burglary and larceny constitute a substantial share of the felonies precipitating rearrests. Twenty-two percent (22%) of the probationers are rearrested for burglary offenses. Drug trafficking is a factor in 17% of new felony arrests and larceny constitutes another 15%. The 15%. The largest share of new felony arrest is with the "other" category which accounts for 27% of the rearrests.

A cursory review of the "Other felony" category reveals many of

these offenses to fall into three offense categories: possession of a controlled substance, criminal trespass, and possession of stolen property. These are non-violent felonies. Consequently, eight out of ten (81%) new felony arrests are attributable to property and drug offenses.

Table 45  
Percent distribution of the offenses precipitating the first felony rearrest by probationers' initial crime of conviction resulting in their probation term

Percent of probationers initially convicted of:

Crime precipi- tating first felony rearrest	Total pro- bationers rear- rested	Homi- cide	Rape	Rob- bery	Aggra- vated Assault	Burg- lary	Lar- ceny	Drug traffick- ing
Total	100%	100%	100%	100%	100%	100%	100%	100%
Homicide	1	8	0	0	4	0	0	1
Rape	2	8	22	1	5	1	3	0
Robbery	12	46	4	22	11	13	13	1
Aggr. assault	5	15	9	8	10	5	7	1
Burglary	22	0	17	21	13	36	13	7
Larceny	15	8	22	13	6	15	33	3
Drug trafficking	17	0	17	15	6	6	10	50
Other felony	27	15	9	19	44	25	21	38

Note: This table was computed using only those cases where information on the type of offense precipitating the first felony arrest was ascertained which occurred in 94% of the cases. Also, the boxed in numbers highlight the circumstance where the crime of rearrest coincides with the crime for which the person was initially sentenced to probation.

Among the violent offenses precipitating new arrests, robbery dominates with 12% of the probationers being rearrested for this offense. Aggravated assault is the next highest violent offense (5%) precipitating new arrests. Homicide (1%) and rape (2%) constitute the smallest share of new felony arrests.<sup>3</sup>

As is evident in Table 45, probationers who get arrested on new felony offenses are eclectic in their selection of felonies that they choose to commit. However, there is a tendency for the largest

percentage share of the crime precipitating the first felony arrest to match the crime for which the person was originally sentenced to probation (this match is highlighted in Table 45). This is especially true for persons initially convicted of drug trafficking and burglary. Of those drug traffickers arrested for new felonies, half of the new felonies (50%) are for another drug trafficking offense. With persons sentenced to probation for burglary, 36% of those arrested for new felonies are apprehended for another burglary offense.

#### 4.13 Number of Rearrests

Unlike disciplinary hearings, the phenomenon of multiple rearrests occurs rather frequently. Table 46 presents information on the frequency with which rearrests occur. Overall, 21% of all probationers are rearrested once. In addition, seven percent (7%) are rearrested twice and another six percent (6%) are rearrested three or more times.

Table 46  
Percent distribution for the frequency with which rearrests occur

Number of rearrests	Total
None	66%
One	21
Two	7
Three or more	6

These multiple arrests are not restricted to misdemeanor offenses. On the contrary, many of the multiple arrests involve felony offenses. While 12% of the probationers are arrested once for a felony arrest, four percent (4%) are arrested twice for felony offenses and another two percent (2%) are arrested three or more times for felony offenses. Multiple arrests occur less frequently for probationers committing misdemeanor offenses only.<sup>4</sup> Nine percent (9%) of the probationers

are arrested once for a misdemeanor offense while two percent (2%) are arrested twice and another two percent (2%) are arrested three or more times for misdemeanor offenses.

#### 4.14 Time Elapsed to First Rearrest

The time elapsed between the probationers' start of supervision and their first arrest is short for many probationers. As shown in Table 47, 47% of the probationers experience their first arrest in the initial six months of their probation term and another 24% have their first arrest in the second half of their first year of supervision (months 7 to 12).

Table 47  
Percent distribution for the time elapsed to the first rearrest by type of rearrest

Time to first rearrest (in months)	Total	Type of rearrest:		
		Misdemeanor only	Misdemeanor and felony	Felony only
0-6 months	47%	36%	57%	52%
7-12	24	25	23	23
13-18	18	21	16	16
19-24	10	16	4	7
25 or more	2	2	0	3

Note: Information for this table was available for 95% of the cases that had new arrests.

The pattern of the percentage of probationers experiencing their first arrest dropping sharply as the probationer's exposure to probation lengthens is particularly strong for those rearrested for felonies. Fifty-two percent (52%) of the first felony arrests occur in the first six months of probation. In contrast, only three percent (3%) of the probationers experience their first felony arrest past their second year (month 25 or later) of their probation term.

The distribution of first misdemeanor arrests by the probationer's

exposure to probation is fairly even in the first two years of supervision. While 36% of probationers have their first misdemeanor arrest in the first six months of probation, 16% of the probationers arrested for misdemeanors wait until the second half of their second year (months 19-24) before committing the offense.

Information on the time to the probationers' first arrest is but one aspect of their law breaking. The information in Table 47 is instructive, however, in that it reveals that those who wish to break the law demonstrate their proclivities early in their probation term. Their trouble-making, unfortunately, does not end with their first arrest. As was shown in Table 46, a sizeable share (13%) of probationers are arrested two or more times in the course of their supervision. These last arrests are spread out fairly evenly throughout the first two years of their probation term.

#### 4.15 Rearrest Outcomes

The information on rearrest outcomes is based on the most severe sanction imposed in the event there were two or more rearrests. The continuum for identifying the most severe sanction, ranging from most severe to least severe, was as follows: prison, jail, probation, other.

Table 48 presents the percent distribution of the most severe outcome of misdemeanor arrests. Of those rearrested for misdemeanors 65% are convicted. Less than half of those convicted (28% out of 65%) receive a jail sentence. The "other" sanction basically represents the use of fines. However, this category also includes those cases where there was a conviction, but no sentence was provided. The "other" sanction was the dominant one used, occurring in 32% of all misdemeanor arrest outcomes. Additional probation was imposed on only four percent

(4%) of probationers arrested on a misdemeanor.

Table 48  
Percent distribution of the most severe misdemeanor rearrest outcomes  
by the number of new misdemeanor arrests

Number of new misdemeanor arrests:				
Rearrest outcome	Total	One	Two	Three or more
Not convicted	32%	37%	31%	7%
Pending	3	2	7	3
Convicted	65	61	62	90
Sentenced to:				
Jail	28	26	32	35
Probation	4	6	1	0
Other	32	29	28	55

Note: The sentences of jail, probation, and other add up to the figure shown for those convicted. Information in this table is based on 71% of the cases with misdemeanor arrests.

The outcomes of misdemeanor arrests are also shown in Table 48 by the number of misdemeanor arrests made against the probationers. A notable development on that dimension occurs with those experiencing three or more misdemeanor arrests where the conviction rate is very high (90%). Interestingly enough, however, the dominant sanction there is "other," e.g. fines. The use of the jail sanction grows modestly from 26% to 35% as the number of misdemeanor arrests increases from one to three or more.

A higher portion of felony arrests result in conviction in comparison with that found for misdemeanors. As shown in Table 49, three out of four probationers (75%) arrested for felonies are convicted and when convicted the vast majority are incarcerated. Better than half (55%) of those arrested for a felony are sent to prison either on a prison sentence for the new arrest or by way of probation revocation. Another 13% of the probationers arrested for new

felony offenses are given jail terms. Only six percent (6%) receive another probation term.

Table 49  
Percent distribution of the most severe felony rearrest outcomes by the number of new felony arrests

Arrest outcome	Total	Number of felony arrests:		
		One	Two	3 or more
Not convicted	15%	18%	4%	0%
Pending	8	9	8	2
Other	2	1	0	12
Convicted	75	72	88	87
Sentenced to:				
Prison - new sentence	39	35	51	66
Prison - revoked	16	17	12	14
Jail	13	13	21	7
Probation	6	7	3	0

Note: The sentences of prison, jail, and probation add up to the figure shown for those convicted. Information in this table is based on 79% of the cases with felony arrests. Also the other category includes those rearrests precipitated by a probation disciplinary hearing whose outcomes were something rather than a revocation.

Table 49 also shows the differences in the outcomes based on the number of new felony arrests to which probationers were subjected. The conviction rate increases from 72% for those arrested for one felony to 87% for those convicted of three or more felonies.<sup>5</sup> Not only do conviction rates increase but so also does the use of prison. While only 52% of those rearrested for a felony once go to prison, 80% of those arrested three or more times go to prison.

As shown in Table 50, the conviction rates are very high for many of the offenses precipitating the first felony arrest. The conviction rates range from a low of 61% for "other felony" rearrests to a high of 90% for those rearrested on burglary offenses. The conviction rates for those rearrested on violent offenses (homicide, rape, robbery, and



aggravated assault) may be understated because these offenses have sizeable percentages for rearrests whose dispositions are still pending. This is especially the case for those rearrested for homicide, with 82% of those rearrests still being litigated. The percentage for rearrests still awaiting a disposition is next highest for those rearrested on robbery offenses (20%) and then falls between 12% and 15% for those rearrested for rape and aggravated assault. All of the remaining rearrest offense categories have single digit percentages for cases still awaiting a disposition.

Table 50  
Percent distribution of the most severe felony rearrest outcome by the offense precipitating the first new felony arrest

Crime precipi- tating first felony rearrest	Arrest outcome:				If convicted, sentenced to:			
	Not con- victed	Pend- ing	Con- Other	Con- victed	Prison new sen- tence	Prison revoked	Jail	Pro- bation
Homicide	0%	82%	0%	18%	18%	0%	0%	0%
Rape	4	12	0	84	76	8	0	0
Robbery	6	20	0	74	46	25	0	2
Aggravated assault	21	15	1	63	40	15	6	3
Burglary	5	5	0	90	57	18	9	6
Larceny	15	5	6	74	16	24	25	7
Drug trafficking	13	4	0	83	52	9	6	16
Other felony	27	7	4	61	30	16	13	3

Note: The information in this table is based on 72% of the cases with new felony arrests where arrest disposition was available. The sentences of prison, jail, and probation add up to the figure shown for those convicted.

The most notable differences in Table 50 occur in the use of prison -- either on a sentence to prison for the new offense or by way of probation revocation. Probationers whose first felony arrest is larceny go to prison only 40% of the time. This percentage rises to 46% for those rearrested on "other" felonies and 55% for those rearrested for aggravated assault. Among those probationers rearrested for burglary or robbery, better than seven out of ten go to prison (75% and

71% respectively). With those probationers convicted of a new homicide or rape, all go to prison (18% out of 18% for homicide; 84% out of 84% for rape).

Jail is most notably used on those probationers arrested on a new larceny offense. One out of four (25%) probationers arrested for a new larceny offense get jail terms. The use of jail ranges between six to thirteen percent (6-13%) for aggravated assault, burglary, drug trafficking, and "other" felony arrests. Jail, however, is not a sanction employed against those convicted of homicide, rape, and robbery. Rather those rearrested and convicted on such charges are incarcerated in state prisons.

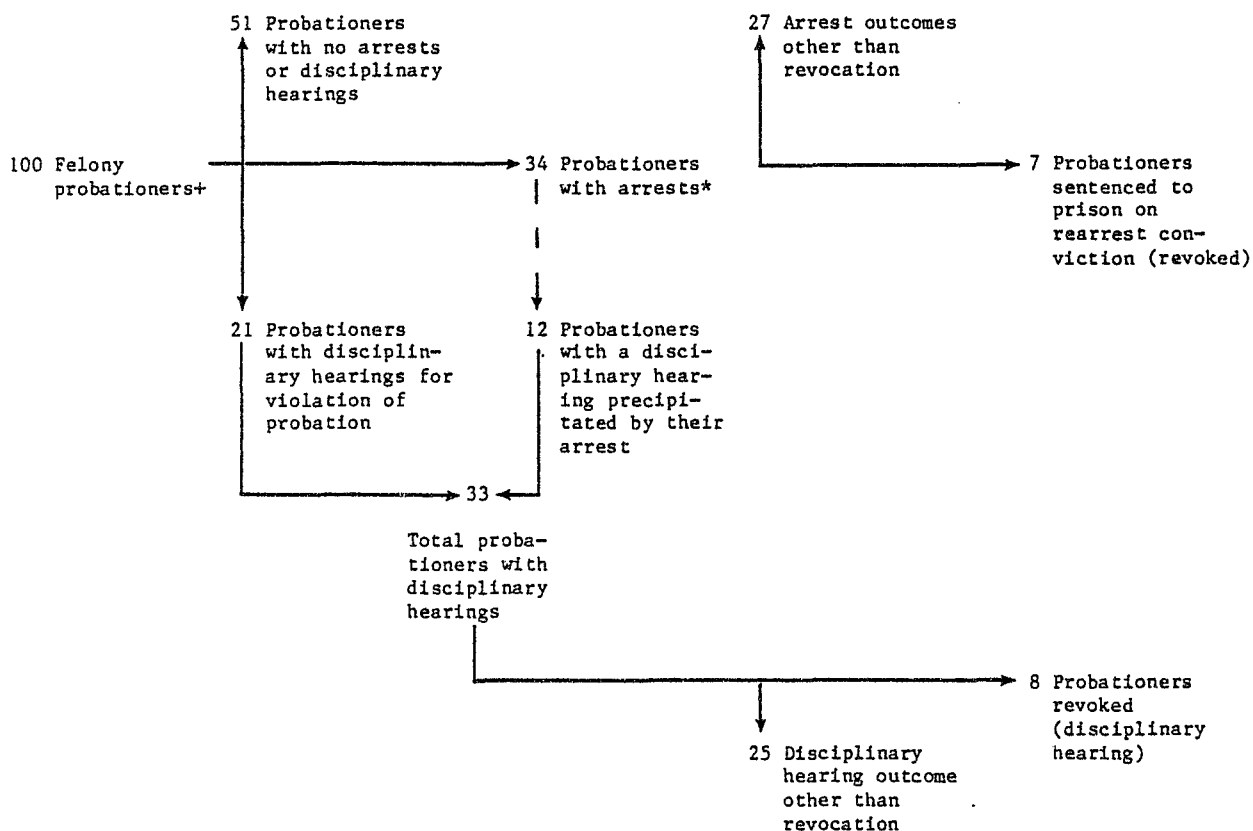
Additional probation is a notable outcome only for drug trafficking (16%) with this sanction ranging between zero and seven percent (0-7%) among the remaining offense categories.

#### 4.16 Probation Revocation

The process by which a probationer can be revoked is complex. Revocation can occur because of a sentence to prison for a new felony offense or because of a disciplinary hearing that results in the probationer being sent to prison or because of both. To tie together the previous two sections of this chapter, Chart A is presented to illustrate the path to revocation for a typical 100 felony probationers.

Chart A contains a limited amount of double counting in tracking probationers who are rearrested and those who are subjected to disciplinary hearings for violations of probation. Six percent (6%) of the probationers have at least one rearrest and a disciplinary hearing precipitated by a violation of probation. For this reason the sum of probationers with new arrests (34) and probationers with disciplinary

Chart A  
The path to revocation for a typical 100 felony probationers



+Six percent (6%) of all probationers have at least one arrest and one disciplinary hearing precipitated by a violation of probation. This 6% is allowed to follow both tracks; i.e. arrest and disciplinary hearings for violations of probation. Also, those probationers who had disciplinary hearings precipitated by violations and new arrests, follow the arrest path and are not included in the first break showing "probationers with disciplinary hearings for violations of probation."

\*Probationers who have a disciplinary hearing precipitated by their arrest are counted in both paths (arrests and disciplinary hearings). Nearly all that remains in the arrest path have an arrest outcome that is other than revocation.

hearings for violations of probation (21) exceeds 50 ; i.e. the number of probationers who got into trouble due to new arrests or disciplinary hearings. In addition, probationers with new arrests can, and do, follow collateral paths; i.e. processing through the criminal justice system as well as processing through probation disciplinary hearings. As noted in Chart A, 12 out of every 100 probationers are subjected to a disciplinary hearing due to a new arrest. There is, however, no double counting of revocations. The figures presented for revocations as the outcome for new arrests (7 out of 100) or probation disciplinary hearings (8 out of 100) add up to the total revocation figure of 15 out of every 100 probationers.

As displayed in Chart A, only half of felony probationers (51 out of 100) manage to avoid being rearrested or subjected to a probation disciplinary hearing. Just about an equal share of probationers are rearrested (34 out of 100) as are subjected to a probation disciplinary hearing (33 out of 100). As is illustrated in Chart A, there are two paths to a probation disciplinary hearing. While most disciplinary hearings are precipitated by a violation of probation, a circumstance that occurs to 21 out of every 100 probationers, a sizeable number of probationers (12 out of 100) find themselves in probation disciplinary hearings as a result of their being rearrested.

There is just about an even split in terms of the number of revocations generated as the result of a new arrest as that found for those generated by probation disciplinary hearings. The effect of rearrest in generating revocations, however, is understated in Chart A. An analysis of probationers who are revoked due to a disciplinary hearing reveals that half of those probationers had their disciplinary

hearings precipitated by a rearrest.<sup>6</sup> Consequently, rearrests play a dominant role in the probation revocation process, with 11 out of every 15 revocations attributable to probationers being arrested for new offenses.<sup>7</sup>

#### 4.17 Summary

Probationers do present a degree of risk. The information presented in this chapter provides a descriptive background in which that risk can be assessed. The measure most closely associated with risk is the degree to which probationers are rearrested. Certainly the statistics of one out of every three probationers being rearrested is not particularly reassuring, most of those arrests involve either misdemeanors or non-violent felony offenses (property crimes and drug trafficking). Only four percent (4%) of the probationers commit crimes of violence while on probation. Nearly all of these crimes of violence are for robbery and aggravated assault with very few for rape and homicide.

This chapter also revealed the range of sanctions employed to discipline wayward probationers. While fines, jail, and additional conditions of probation are used as the dominant sanctions for handling misdemeanor arrests and violations of probation, prison is the dominant sanction employed to deal with probationers who are arrested on new felony offenses, especially violent felony offenses. The initial sentence to probation represents a second chance for the probationer. It would appear from the data displayed in this chapter that if the probationer fails to make good on that second chance by committing yet another felony, the court is considerably less inclined to offer a third chance.

Footnotes:

1. The reader is reminded that one of the boiler plate conditions of probation is for the probationer to find employment. Their not working, therefore, is grounds for initiating a disciplinary hearing and could contribute to the high percentage of hearings brought about due to the violation of a condition of probation.
2. The percentage shares of bench warrants occurring among disciplinary hearings involving arrests indicates that those probationers who were arrested have subsequently absconded.
3. It is interesting to note that the relative share of violent (homicide, rape, robbery, and aggravated assault) to non-violent offenses (burglary, larceny, and drug trafficking) is smaller among these new offense categories (30%) than that found with the distribution in the original sentencing sample (39%). See BJs Special Report, "Felony Sentencing in 18 Local Jurisdictions," May, 1985, page 10, appendix table 2.
4. The notification of a probationer's arrest to the probation department is far from automatic. Indeed in most probation agencies, probation officers will visually review arrest logs from the police department to determine whether or not any of their probationers were arrested. The chances of missing an arrest are real but more so with misdemeanor arrests because of release mechanisms such as citation release. This development may be a factor in explaining why there are few misdemeanor arrests overall as well as the infrequency of multiple misdemeanor arrests.
5. Remember the analysis is based on the most severe outcome. If a probationer has multiple arrests, the chances of the criminal justice system obtaining a conviction increases because of the multiple opportunities afforded it.
6. This analysis further revealed that 82% of those arrests that precipitated the disciplinary hearings resulting in revocation were for felonies, and only 18% involved misdemeanors.
7. The figure, eleven, is obtained by adding the 50% of the cases attributable to disciplinary hearings precipitated by new arrests ( $.50 \times 8 = 4$ ) to the figure found for probationers revoked due to new arrest dispositions (7).

## Chapter 5: CONCLUSION

The underlying philosophy guiding probation has been a rehabilitative approach toward the offender. The rehabilitative ideal has lost favor in corrections over the past ten years and the diminishing of rehabilitation as the principal goal to be sought is now beginning to impact probation. Probation, however, did not concern itself only with rehabilitation. Probation agencies have also spent time and money on supervising their clientele. The tension between trying to help probationers as well as trying to police them in the community has always existed within probation agencies. There is presently a shift in emphasis on the goals of probation. The emphasis is moving from trying to help probationers to supervising them more closely in the community. This new emphasis will not bring about the total abandonment of considerations such as counseling and employment services but instead place greater focus on how to monitor the probationer more closely in the community. The use of "intensive supervision" and house arrest, in some cases aided by electronic monitoring devices, will be the types of programs receiving the greatest attention from probation agencies in the next several years.

Regardless of its driving goals, probation is basically a criminal sanction carried out in the community. As such, probation draws upon the resources that are available to it in the community being served. The nature and extent of those resources vary from community to community as the chapter dealing with behavioral conditions pointed out.

Another resource that comes into play with probation is that of local law enforcement agencies. The impact of law enforcement is most evident with regard to revocation. Police activity in the form of

arrests precipitates 73% of all revocations. In addition, through the arrests that they make, law enforcement officers come into contact with 34% of felony probationers over the course of their term.

Law enforcement's involvement in probation is reactive and in most instances the arresting officer is probably not even aware of the person's status as a probationer until his/her rap sheet comes in. The relationship between probation agencies and law enforcement agencies tend to be strained; but there is a relationship, informal though it may be.

In 1980, Herman Goldstein undertook research in Madison, Wisconsin, on the problem of sexual assault in the community. His research revealed that many of the sexual assaults that were occurring in Madison were being committed by persons who were under parole supervision. This research led to a formal working arrangement between the Madison Police Department and Wisconsin's parole agency. That formal arrangement basically called for parolees to report to the local police station that served the community in which the parolees were living so as to meet with the precinct sergeant. The sergeant, in turn, distributed a photograph of the parolee to the police officers patrolling the district and informed the officers of any special conditions that the parolee had to follow. The message to the parolee was that he/she was not an anonymous figure in the community and that the police, as well as the parole officer, would be monitoring his/her activities.

A similar experiment is presently going on in Los Angeles County. The Los Angeles County Probation Department is working with the San Pedro Police Department in having selected probationers watched in the community. There are many issues that need to be worked out in such an



arrangement. However, given the shift in emphasis to supervision and given the fact that the police are an already existing resource dedicated to monitoring activities in the community, it is good policy to make the effort to develop workable policies that enlist more formal police involvement in probation.

As noted in this report, probationers do fail. Their failure ranges from their inability to meet some of the basic conditions of probation such as finding a job, to their failure to satisfy behavioral conditions such as community service, or failure to pay their financial assessments such as victim restitution. They also fail most seriously when they commit new felony offenses.

Probation is a risk and there are characteristics of probationers that reveal some classes to be higher risks than others. For example, those probationers who are unemployed fail to meet their behavioral and financial conditions and get rearrested more frequently and for more serious offenses than those who are employed full time. Going from the identification of a high risk group to identifying prospective high risk individuals, however, is an impossible task. In 1985, the Rand Corporation issued its report, "Granting Felons Probation: Public Risks and Alternatives," in which there was the acknowledgement that statistically based predictions for identifying potential recidivists would be of limited use to the courts. The report went on to observe that "until statistically based predictions can be made more accurate, basing sentencing decisions on them would raise obvious moral and legal questions." (Rand, page 58)

Having information on general classes of probationers and the risks they pose to the community may not help in identifying who specifically is going to be a problem but such information can help

probation agencies target scarce resources on those who should be supervised more closely. There are programs that probation agencies can implement to watch probationers more closely, such as house arrest and intensive probation, but with limited resources there is the need to target such programs on high risk probationers. Information on general risk can contribute to such targeting.

As long as prison crowding continues to be a problem, probation is going to continue to play a major role in handling felony court sentences. The baseline information in this report can provide statistical information not only on what happens to probationers as their numbers and type change over time but it can also serve as a backdrop for assessing the impacts of new probation programs such as house arrest or the implementation of coordinated activities between probation agencies and law enforcement agencies.

In conclusion, the major highlights of this report are:

- Most persons are sentenced to probation for non-violent offenses.
- Few probationers (4%) are rearrested for offenses involving violence -- homicide, rape, robbery, and aggravated assault.
- Persons sentenced to probation for robbery or burglary offenses have the highest rearrest rates.
- Fifteen percent (15%) of felony probationers get revoked.
- Seven out of ten revocations stem from a new arrest.
- Nine percent (9%) of felony probationers abscond.
- Employed probationers do much better in meeting the conditions of their probation than those who are unemployed.
- Only 27% of financial assessments are paid.
- Most contacts between the probation officer and the probationer take place in an office setting.

# PROBATION QUESTIONNAIRE

The probationer identified below was selected in a study conducted on 1983 felony court sentencing practices by the National Association of Criminal Justice Planners (NACJP) under a contract from the Bureau of Justice Statistics. Information on the probationer identified below along with all of the other probationers identified in the aforementioned sentencing study is being sought for an analytic report on:

- the extent and types of specified conditions imposed on probationers
- the degree of compliance with the specified conditions
- exit status of the probationer
- the extent to which probationers are arrested while under supervision

Your cooperation in this endeavor is appreciated. If you have questions about this questionnaire or the study for which the information gathered in this questionnaire will be used, you may contact the NACJP at (202)223-3171. When you have completed the questionnaire, please return it to:

### A. PROBATIONER BACKGROUND INFORMATION

1. Felony court case ID #: \_\_\_\_\_
2. Probationer's ID #: \_\_\_\_\_
3. Probationer's name: \_\_\_\_\_
4. Probationer's Age/DOB: \_\_\_\_\_
5. Crime convicted of: \_\_\_\_\_
6. Jail term imposed along with probation?  
\_\_\_\_ Yes (jail term = \_\_\_\_\_ years) - please respond to question 7  
\_\_\_\_ No (go to section B)
7. If a jail term was imposed at the time of sentencing, do the probation records show when the probationer began and ended his/her jail term?  
\_\_\_\_ Yes (began: \_\_\_\_\_ ended: \_\_\_\_\_)  
                        date                      date  
\_\_\_\_ No

## B. PROBATION INFORMATION

1. Month this questionnaire is being filled out: \_\_\_\_\_/1985.
2. Date on which the person begin his/her probation term: \_\_\_\_\_

Answer the following question only if the year for the start of the probation term is 1982 or earlier.

3. For what offense was the person placed on probation?

Penal code citation: \_\_\_\_\_  
Brief description: \_\_\_\_\_

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

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

Date left probation: \_\_\_\_\_ Reason for leaving probation (check one): \_\_\_\_\_ Served probation term \_\_\_\_\_  
 Probation revoked \_\_\_\_\_

6. Out of a typical ten (10) face-to-face contacts with this probationer, how many would take place in the probation office and how many in the field?
- |       |                  |
|-------|------------------|
| _____ | Office contacts  |
| _____ | Field contacts   |
| 10    | Typical contacts |

7. Please supply the appropriate information as to the type of probationary supervision that the person was under during the first and last months of his/her probation. For the purposes of this study, the following operational definitions apply:

- First month begins with the time after the probationer has served any jail term or community residential placement that the judge may have imposed at the time of sentencing.
- Last month refers to the last month in a closed/inactive case or the month immediately preceding the completion of this questionnaire for cases that are still active.

Please fill in the appropriate code letters in the boxes below. Enter as many letters as are pertinent for each cell. To cover the contingency of multiple occurrences of a particular type of supervision, please place the number of times a particular supervisory act takes place in front of the code letter, for example two field visits in one week would be coded 2F in the appropriate cell.

Code Letters for Type  
of Supervision

F = Field visit  
V = Office visit  
T = Telephone  
M = Mail  
O = Other (Describe: \_\_\_\_\_)  
Week 4 or  
monthly total

Probationary Supervision

First month	Last month

Note: If your records have the types of supervision provided by month, then place entry in last row (Week 4 or monthly total)

C. CONDITIONS OF PROBATION

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

Type of Financial Condition Imposed at Sentencing	Condition Imposed		If financial condition was imposed, how much:		Has the financial condition been revised?		
	No	Yes	Was assessed?	Has been paid?	No	Yes	If yes, to what?
Fine			\$	\$			\$
Court fees			\$	\$			\$
Probation costs (see note)			\$	\$			\$
Monetary restitution to the victim			\$	\$			\$
Victim compensation fund			\$	\$			\$
Other costs			\$	\$			\$

NOTE: Probation costs are usually expressed as so much money per month. You may use the monthly cost 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 behavioral conditions (enumerated below) imposed on the probationer.

If condition imposed, probationer:

Type of Behavioral Condition Imposed at Sentencing	Condition Imposed		Has satisfied the condition	Is making progress on satisfying the condition	Was unable to meet the condition satisfactorily
	No	Yes			
Community residential placement (24 hour/day supervision - see note)					
Participate in alcohol/drug treatment					
Submit to drug testing					
Perform community service					
Participate in mental health programming					

NOTE: Community residential placement does not include residential placements that are geared principally to drug or alcohol treatment. Such placement should be recorded under "participates in alcohol/drug treatment."

3. If the person was placed in a community residential facility, how long was s/he in residence?

\_\_\_\_\_ weeks

4. If the person had to participate in an alcohol/drug treatment program, was this a residential or a non-residential program?

- \_\_\_\_\_ Residential (please respond to question 5)  
\_\_\_\_\_ Non-residential (go to question 6)  
\_\_\_\_\_ Not ascertained (go to question 6)

5. If the person was placed in a residential alcohol/drug treatment facility, how long was s/he in residence?

\_\_\_\_\_ weeks

6. If the person has to perform some type of community service:

How many hours must the person perform? \_\_\_\_\_ hours

#### D. TECHNICAL VIOLATIONS

This section deals only with the probationer's failure to meet the various conditions of his/her probation that resulted in an official hearing before a judge or hearing officer. This section is not seeking information on any arrests that the probationer may have been subjected to for new infractions of the law. Information on arrests is sought in Section E.

1. How many times did violations result in a hearing before hearing officer or a judge?

Number of hearings before a hearing officer/judge = \_\_\_\_\_

2. When did the first technical violation requiring the intervention of a hearing officer or a judge occur for this probationer?

Date of first violation: \_\_\_\_\_

3. If there was more than one technical violation requiring the intervention of a hearing officer or a judge, what was the date of the last violation?

Date of last violation: \_\_\_\_\_

4. This item seeks information on the outcome of technical violations handled by a hearing officer or a judge. To handle the contingency of multiple technical violations, we request that you enter the number of times the outcomes listed below occurred.

Outcome of technical violation handled by hearing officer/judge

- \_\_\_\_\_ Additional conditions imposed (including community residential)  
\_\_\_\_\_ Sent to jail (Total days = \_\_\_\_\_)  
\_\_\_\_\_ Sent to prison (Prison term = \_\_\_\_\_ years)  
\_\_\_\_\_ Bench warrant requested  
\_\_\_\_\_ Violation not substantiated  
\_\_\_\_\_ Total outcomes (should equal response to item D.1.)

#### E. ARRESTS

This section deals with the number of times the probationer has been arrested during his/her probation term and the outcome of those arrests. This section deals with arrests for all types of felony and misdemeanor offenses.

1. How many times has the person been arrested since being placed on probation?

Total number of arrests = \_\_\_\_\_

2. What was the date of the first arrest?

Date of first arrest = \_\_\_\_\_

3. If there was more than one arrest, what was the date of the last arrest?

Date of last arrest = \_\_\_\_\_

4. Please fill in the following grid on the type of infraction for which the probationer was arrested and the outcomes of those arrests. Because of the possibility of multiple arrests, please enter the number of times each of the circumstances (enumerated below) occurred.

Type of Infraction Arrested for	Number of:			For new convictions:		
	Times arrested	Arrests prosecuted	Arrests resulting in conviction	Number of days sentenced to jail	Additional probation term imposed (in years)	Prison term imposed (in years)
Misdemeanor						XXXXXXXXXX XXXXXXXXXX
Felony						

5. If the probationer was arrested for a felony, what was the state penal code citation for the first felony arrest?

Penal code citation: \_\_\_\_\_

Brief description: \_\_\_\_\_

6. Did any of these arrests precipitate a probation proceeding before a hearing officer or a judge?

\_\_\_\_\_ No  
\_\_\_\_\_ Yes

If yes, how many times? \_\_\_\_\_

7. This item seeks information on the outcome of probation proceedings precipitated by new arrests and handled before a hearing officer or a judge. To handle the contingency of more than one such proceeding, we request that you enter the number of times the outcomes (listed below) occurred.

Outcome of Probation Proceedings Precipitated by New Arrests and  
Handled Before a Hearing Officer/Judge

\_\_\_\_\_ Additional conditions imposed (including community residential)  
\_\_\_\_\_ Sent to jail (jail term = \_\_\_\_\_ days)  
\_\_\_\_\_ Sent to prison (prison term = \_\_\_\_\_ years)  
\_\_\_\_\_ Arrest not substantiated  
\_\_\_\_\_ Total outcomes (should equal response to item 6)

#### F. SUPPLEMENTAL PROBATIONER INFORMATION

1. Sex of probationer: \_\_\_\_\_ Male \_\_\_\_\_ Female

2. Which of the following statements best describes the probationer's work experience while on probation? Check one:

\_\_\_\_\_ Probationer has a full time job  
\_\_\_\_\_ Probationer has steady part-time work  
\_\_\_\_\_ Probationer goes through periods of work and unemployment  
\_\_\_\_\_ Probationer has very erratic and very short work periods  
\_\_\_\_\_ Probationer has been unable to get any kind of work at all

3. When the probationer is employed, what is his/her approximate hourly wage? \$ \_\_\_\_\_/hour

4. Which of the following statements best describes the probationer's living accommodations while under probation? Check one:

\_\_\_\_\_ Lives at home with spouse (and children)  
\_\_\_\_\_ Lives with family members, e.g. parents, sister/brother  
\_\_\_\_\_ Lives with others (non-family, including non-marital partner)  
\_\_\_\_\_ Lives alone  
\_\_\_\_\_ Other

5. How steadily has the probationer maintained a residence? Check one:

\_\_\_\_\_ Probationer has remained at same address for entire probation period  
\_\_\_\_\_ Probationer has moved only once or twice for cause, e.g. lease  
\_\_\_\_\_ Probationer tends to move frequently

## Appendix B Methodological Notes

### B.1 Reference Period from which Sentences were Drawn

With the exception of Baltimore County, Dade County, and New Orleans, the data in this report represent probation sentences meted out for the crimes under study during calendar year 1983.

Baltimore County provided probation sentences for the period 4/1/83 through 3/31/84. The reason for this time frame was that Baltimore County was using its Prosecutor Management Information System to identify cases falling into the study and that the system was not fully operational to provide such information before April 1, 1983. So to stay with a common record source for identifying the eligible cases, the time frame was altered.

On October 1, 1983, the State of Florida implemented new sentencing procedures. In the interest of obtaining one full year's worth of data under a single sentencing approach, the decision was made to collect the Dade County information on probation sentences from October 1, 1982 through September 30, 1983.

The record systems in New Orleans forced a change in the reference period there. The change entailed going from sentences handed down in 1983 to cases initiated in 1983. The reason for this change in reference period was that no central record system existed in which to examine cases by their date of disposition. Court records are organized by the date on which cases are initiated. Because of the large number of raw records that would have to be examined (there are ten courts with each court having 12-14 volumes of 250-300 cases each) and because cases tend to be disposed of within 60-90 days, the decision was made to go with cases initiated in 1983 knowing that nearly all would have been disposed of by the time the data were coded (which was in June, 1984).

## B.2 Exposure to Probation

The probation cases under analysis in this study experienced differential exposure time to probationary supervision. This differential exposure time is 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 1983 and that the bulk of the questionnaires were completed between July and September of 1985. Consequently, the maximum exposure that a case could have had to probation is 33 months (January 1983 to September 1985) while the minimum exposure could be 19 months (December 1983 to July 1985). Exposure time to probation could be shorter than 19 months if the probation sentence was less than 19 months. This differential exposure to probation clearly effects this study's analysis of such considerations as time to rearrest or revocation but has 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 probationary supervision.

## B.4 Geographical Coverage

In all of the jurisdictions participating in the study, the sentencing data comes from the entire county except in Los Angeles. The scope of the study in Los Angeles County was limited to probation sentences meted out in Central District Court which basically serves the City of Los Angeles.

## B.4 Crime Definitions

The penal codes from each of the participating jurisdictions provided the basis for defining the seven crimes analyzed in this study; i.e., homicide, rape, robbery, aggravated assault, burglary, larceny, and drug trafficking. Staff specified which penal code citations applied to these various crime types and in some instances specified what citations did not. These exclusions took place where the participating jurisdiction's penal code could



lead to potential confusion with the general parameters that were laid down for the study. For example, a number of states have statutes dealing with criminal trespass, a crime that could easily be confused with burglary. Staff made explicit that criminal trespass should be excluded from the data collection effort.

Staff compiled a listing of all statutes falling into the study in a separate publication titled, "Penal Code Citations: Guidelines for BJS Sentencing Project Participants." A review of this document would show that there are differences as to how the crimes are defined from jurisdiction to jurisdiction. Such differences are to be expected with each state legislating its own code. In the context of the seven crimes involved in this study, the differences do not seriously impair our ability to obtain comparable definitions.

The general parameters for the selected crime categories and the major differences observed among the jurisdictions are outlined below.

Homicide. This crime was defined as wrongful death with or without intent and included such legal terms as murder, manslaughter, reckless homicide, and vehicular homicide. The types of crimes excluded from this crime category for the purposes of this study involved such activities as aiding in a suicide and causing the death of an unborn child. Because the study was looking at cases disposed of as felonies, there were several instances where certain types of homicides did not qualify for inclusion in the study because they were defined as misdemeanors in the penal codes, for example, vehicular homicide is a misdemeanor in Maryland. Because of its misdemeanor status, this crime fell out of the scope of the study. Yet vehicular homicide is a felony in most of the other participating jurisdictions and so was within the scope of the study for them. Finally, whenever a homicide was attempted, for purposes of this study it fell under the crime category of aggravated assault.

Rape. This crime was defined as the illegal sexual penetration of a person, including the use of foreign objects. Consequently, this definition embraces statutory rape (where force may be absent but the status of the victim is viewed as prima facie evidence that the victim was not capable of resistance, e.g. age, mental competency) as well as forcible rape. This crime category includes homosexual rape as well as heterosexual rape. Statutory provisions that the study excluded involved crimes of sexual contact (including those

with elements of force and those committed against children) where no sexual penetration was achieved. 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 to deprive another of his/her property. While the definition for robbery is very straightforward, there are items that need to be highlighted here. A number of penal codes have provisions under burglary that involve a basic element for robbery; i.e. a confrontation between the offender and the victim. Where state penal codes specifically detail such circumstances, the study classified those burglaries as burglaries. Also almost every penal code differentiates between armed robbery and unarmed robbery. The reader should note that armed robbery covers a wide spectrum of weapons that goes beyond the image of a felon pointing a gun at the victim. Weapon usage can embrace knives, bats, play guns, or even someone pointing a finger through his/her pocket to give the appearance of a weapon.

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, firefighters, 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 are 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 is no easy way to identify those cases where there was a confrontation with the victim. So these cases were left 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. In some instances this was impossible; but in discussing these situations with staff from the prosecutor's offices, such crimes (breaking into a car) were seldom pursued under the burglary statute.

Larceny. This crime is perhaps the most ambiguous of the crime categories included in the study. The study sought to limit the definition to the unlawful taking of property and to exclude such circumstances as extortion, fraud, or deception. Some codes have separate citations for such circumstances while many of the codes strictly focus on the value of the property taken, without regard to the method used by the offender. In addition, 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, however, 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.

These crime definitions were used in identifying the crime of conviction which resulted in the probation sentence as well as in identifying crimes on which a person may have been arrested while under probationary supervision.

#### B.5 Weights

Because of the clerical task associated with collecting the information on probationers, the study relied on sampling. The sampling rates varied by type of crime and jurisdiction. The study's goal was to obtain 30 cases for each type of crime in each of the jurisdictions. Sampled cases were weighted by the inverse of their sampling rate. For example, in Baltimore City, every eighth robbery probation case was selected for analysis. Each of these robbery cases were then weighted by a factor of 8 in order to provide estimates on the universe of robbery probation cases.

As can be observed in the Weighting Grid attached, the weights are low for the crimes of homicide, rape, and robbery across all of the jurisdictions. These low weights indicate the low reliance on sampling because of the relatively small number of probation cases attributable to these crime categories. The weighting factors become larger, however, for the property crimes of burglary and

# Weights for Probation Cases

Jurisdiction	Homicide	Rape	Robbery	Aggravated		Burglary	Larceny	Drug Trafficking
				Assault				
Baltimore City	1	1	8	1		6	NA	NA
Baltimore County	1	1	1	1		1/2*	4	2
Dade County	1	1	5	3		11	8	4
Davidson County	1	1	1	1		2	2	2
Denver	1	1	1	1		4	1	4
Jefferson County	1	1	1	1		2	2	3
Jefferson Parish	1	1	1	1		3	4	1
Kane County	1	1	1	1		1	1	1
Lancaster County	1	1	1	1		1	1	1
Los Angeles	2	2	5	4		9	8	30
Lucas County	1	1	1	1		1	1	1
Maricopa County	1	2	2	6		15	15	3
Milwaukee County	1	2	2	1		9	3	4
New Orleans	1	1	1	1		2	3	2
Oklahoma County	1	1	1	2/1+		3	3	3
Riverside County	1	1/2#	1	3		3	1	4

\* All residential burglaries; half of commercial burglaries.

+ All attempted homicides; half of aggravated assaults.

# All of forcible intercourse; half of sodomy.

larceny and for drug trafficking. Indeed there was a heavy reliance on sampling in only a few instances; i.e. drug trafficking in Los Angeles (weight = 30) and burglary and larceny in Maricopa County (weight = 15). None of these weights were readjusted to take into account the failure of obtaining completed questionnaires on the cases selected for analysis.

#### B.6 Data Sources

The information on the probation cases was basically gathered by hand. Only in Baltimore City and Baltimore County (the State of Maryland's offender based tracking system was used), was the data sought available in a computerized data base. The rest of the jurisdictions 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 part time help was hired to review the files and code the data. The format of the questionnaire tended to minimize any quality control 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 necessary the accuracy, in completing the questionnaires. Knowledge of how information is organized in the probation files facilitates greatly the retrieval of the necessary information.

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 operates.

#### B.7 Use of the Mean as the Average

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