

CR-SR/ST
8-29-88

A Comparison of Special Program Probationers and Prison Inmates

February 1988

111449

U.S. Department of Justice
National Institute of Justice

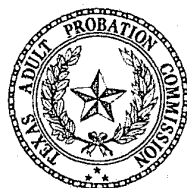
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Acknowledgements

The writers of this report would like to thank the following people, without whom this report would not have been written.

Texas Adult Probation Commission:

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Introduction

Since the settlement of the Ruiz case, the Texas Department of Corrections (TDC) has been struggling with the issue of managing the prison population. By court order, TDC must balance admissions and releases to maintain the prison population at no more than 95% capacity. However, the continued use of the TDC for convicted offenders has resulted in serious population management problems. The continued and increased use of TDC and the court order limiting the prison population to 95% capacity has forced the state to close the prison for 75 working days in 1987 until the population could drop to a level below 95%. Considering the cost of resolving the population management problems at TDC through new prison construction, Texas lawmakers began searching for viable alternatives to incarceration.

The State Legislature mandated the Texas Adult Probation Commission (TAPC) to establish programs to divert inmates from TDC. As a result, TAPC has implemented special programs to perform this diversion function. The essential criterion for diversion is presented in the Code of Criminal Procedure. Section 6f (a), Article 42.12 states:

If a judge determines that a defendant whom the judge would otherwise sentence to the Texas Department of Corrections would benefit from intensive probation and the district is served by an intensive probation program...the judge shall suspend imposition of the sentence and place the defendant on intensive probation.

This statement of legislative intent places the diversion decision with the judiciary and the determination made by the judiciary that an individual offender is or is not a diversion.

Purpose of the Report

The purpose of this report is to answer the following questions:

1. Using a different methodology, can diversions from TDC be substantiated?
2. Is there a similarity between TDC inmates and special program probationers which would indicate additional diversion potential?

Methodology

Description of Populations

The data consists of two populations, felony probationers and TDC inmates. These two populations are further broken down into seven groups or sub-populations:

1. a sample of regular felony probationers (REG);
2. a sample of Intensive Supervision Program (ISP) probationers;

3. Specialized Caseload Program (SCP) probationers;
4. Restitution Center Program (RCP) probationers;
5. Court Residential Treatment Center (CRTC) probationers;
6. a sample of TDC inmates who met the statutory criteria for probation (PRO); and
7. a sample of TDC inmates who did not meet the statutory criteria for probation (NON).

Felony Probation

The special programs funded by TAPC during fiscal years 1985 through 1987 were used for this study. In addition to the special programs a sample of felony probationers on regular caseloads was used in this study to provide a base group. Below are descriptions of each of the probation populations.

Sample of Regular Probation (REG) is a proportionate probability sample of the regular felony probation population for the state of Texas.¹ Sample data on 1,210 regular felony probationers, collected in March, 1985, from a pool of about 73,000 felony probationers was used in the study.

Intensive Supervision Probation (ISP), in operation since fiscal year 1982, serves as an alternative to incarceration for offenders sentenced to the TDC. The program is characterized by the intensity of supervision afforded by small caseloads (maximum of 40) and the availability of contract service dollars for the purchase of service. Probationers assigned to the program are supervised by specially trained officers for up to one year. Because of the large number of ISP cases a smaller sample of 1,597 was extracted. This was done so that the ISP program would not skew the scores.

Specialized Caseloads (SCP) consists of probationers grouped into a caseload around high need problem areas such as mental retardation, substance abuse, mental illness, and family violence. These caseloads are distinguished by two factors; the probation officer has received

special training or has necessary expertise to deal with the specific problem and; the average caseload size is 40 probationers. The Specialized Caseload Program was not specified as a diversion program until fiscal year 1988. There are 1,259 felony probationers in the Specialized Caseloads sub-population.

Restitution Centers (RCP), created by the state legislature in 1983, are community-based, highly supervised residential facilities in which non-violent felony offenders reside while working and paying restitution to their victims. The Restitution Center data consist of all the data forwarded to TAPC by the local departments on probationers in the sixteen restitution centers operational from 1985 through 1987. There are 2,067 probationers in the Restitution Center sub-population sample.

Court Residential Treatment Centers (CRTC) were designed to provide support to local probation departments in the form of short term (4 to 5 months) residential treatment services. Some felony offenders need a brief residency in a structured environment which offers treatment services rather than incarceration or supervision on regular probation. Often these offenders need treatment for drug or alcohol abuse, mental health, job skills training, and basic education. Although the CRTC program was not originally mandated as a diversion program, there has been a heavy emphasis on providing services to offenders that would have been incarcerated. There are 670 cases in the CRTC sub-population.

TDC Inmates

The Texas Department of Corrections (TDC) population is a sample of 1,267 inmates admitted to TDC during a four week period (September 15, 1986 through October 10, 1986). The number represents approximately 50% of the monthly male admissions (1,122) and 100% of the female admissions (147). The males in the sample were those going through the diagnostic process during the afternoon of the day of the interview.

Twenty-four probation officers with intensive supervision caseload experience interviewed the TDC inmates. The interviews took place at the Goree Unit, the intake unit for male offenders and the Gatesville reception center, the intake unit for females. Information obtained through official records (e.g., offense, sentence, county of conviction, etc) was first recorded from official TDC

records prior to individual interviews of the inmates.

To permit comparison between the TDC population and the TAPC population, the TDC offenders were asked the same questions from the risk and needs scales on the assessment form of the Case Classification system. The two TDC groups were defined after the data was collected using the following criteria.

TDC Probable Inmates (PRO) were those inmates that entered TDC who were not convicted of a "3g" offense²; and had sentences of ten years or less.

TDC Non-Probable Inmates (NON) were those inmates that were convicted of a "3g" offense³; or had a sentence greater than ten years.

Case Classification Instrument

TAPC case classification data forms were used to collect the data on probationers in Special Programs and regular probation. The case classification instrument used in Texas is an adaptation of an instrument developed in Wisconsin and used in numerous other states. The forms used in this study include the Intake, Risk Assessment and Needs Assessment. The Intake form contains demographic and other identifying information. The Risk Assessment pertains to criminal history,

commission of violent offenses, job and residence stability and substance abuse as factors in risk to the community. The Needs Assessment pertains to the level of dysfunction in eleven areas including employment, education, substance abuse, mental health and ability, relationships, and financial management.

The same basic information on the TDC population was collected except for items, like residence, which were not applicable.

Results

Risk Assessment

Table 1 reports the mean scores on the risk scale for the seven sub-populations for fiscal years 1985, 1986, and 1987. The mean is a statistical procedure that produces the arithmetic average. The row totals are for each fiscal year. The column totals are for each program. The populations are ordered on the means of program totals from lowest mean risk score to highest.

For 1985, the range of mean risk scores for probationers is from 11.0322 for persons on regular probation to 19.4726 for persons on the Specialized Caseloads. The average risk score for 1985 is weighted toward the sample of regular

probationers as a result of its large size compared to the other sub-populations. This is the only year for which regular probation data was available. The data for 1986 includes only probationers on the Special Programs. There is a range in mean risk scores from 14.9960 for probationers in the Restitution Centers to 19.3531 for probationers in the Intensive Supervision Program. In 1987, the year in which the TDC study data was collected, the two TDC populations are included. As with the other two years there is an increase in the level of risk scores.

Table 1

Mean Score on Total Risk by Program by Fiscal Year

Year	Program							AVERAGE MEAN SCORE
	REG	RCP	CRTC	PRO	ISP	SCP	NON	
1985								
Means	11.0322	15.0841	16.2500	—	19.0392	19.4726	—	14.5232
Cases	1,210	345	36	—	459	383	—	
1986								
Means	—	14.9960	17.4498	—	19.3531	18.8447	—	17.1039
Cases	—	752	289	—	456	264	—	
1987								
Means	—	15.8423	18.8464	18.9255	20.0953	20.7271	26.2598	19.4603
Cases	—	970	345	832	682	612	435	
Program Total								
Means	11.0322	15.4078	18.1045	18.9255	19.5798	19.9508	26.2598	17.4576
Cases	1,210	2,067	670	832	1,597	1,259	435	

1) The risk scale ranges from 0 to 52. The higher the score the greater the risk.

2) Risk is categorized as: 0 to 7 is Minimum
8 to 14 is Medium
15 and over is Maximum

3) Mean is the arithmetic average.

Legend:

REG-regular felony probationers
RCP-Restitution Center probationers
PRO-TDC probatable inmates
NON-TDC non-probatable inmates
ISP-Intensive Supervision probationers
SCP-Specialized Caseload probationers
CRTC-Court Residential Treatment Center probationers

When the means for programs are examined by yearly totals, several items need mentioning. First, there is an overall trend for increased risk each succeeding year. Next, the two populations (Restitution Centers and Specialized Caseloads probationers) that do not fit the pattern have only minor changes in the risk score in 1986 that are not significant. However, the following year the scores for the same two populations jump dramatically.

When the data is examined by program totals several points are evident. The population with the lowest mean risk score is the sample of regular probationers. A second, but significantly different group statistically, is the Restitution Center Program. The mean risk score for Restitution Centers falls in the low range of the maximum category, the same category in which the other special programs fall. Mean risk scores for probationers in the CRTC's, ISP, and Specialized

Caseloads and the TDC probatable inmates cluster together forming a middle block with scores ranging from 18.1045 to 19.9508. Finally, the non-probatable TDC inmates have a much higher mean risk score of 26.2598.

In summary, Table 1 indicates:

1. There is a pattern of increasing risk by fiscal year for most sub-populations.
2. The mean risk score for the Regular Probation Program falls in the medium category. All the rest of the mean risk scores fall in the maximum category as can be seen in Chart 1.
3. The probatable inmates in TDC have a lower mean risk score than ISP or Specialized Caseload probationers.
4. Regular probationers and the TDC non-probatable inmates, form the polar ends of the mean scores and are different from each other as well as the other five sub-populations.

Bar Chart 1
Comparison of Risk Scores Versus Risk Level

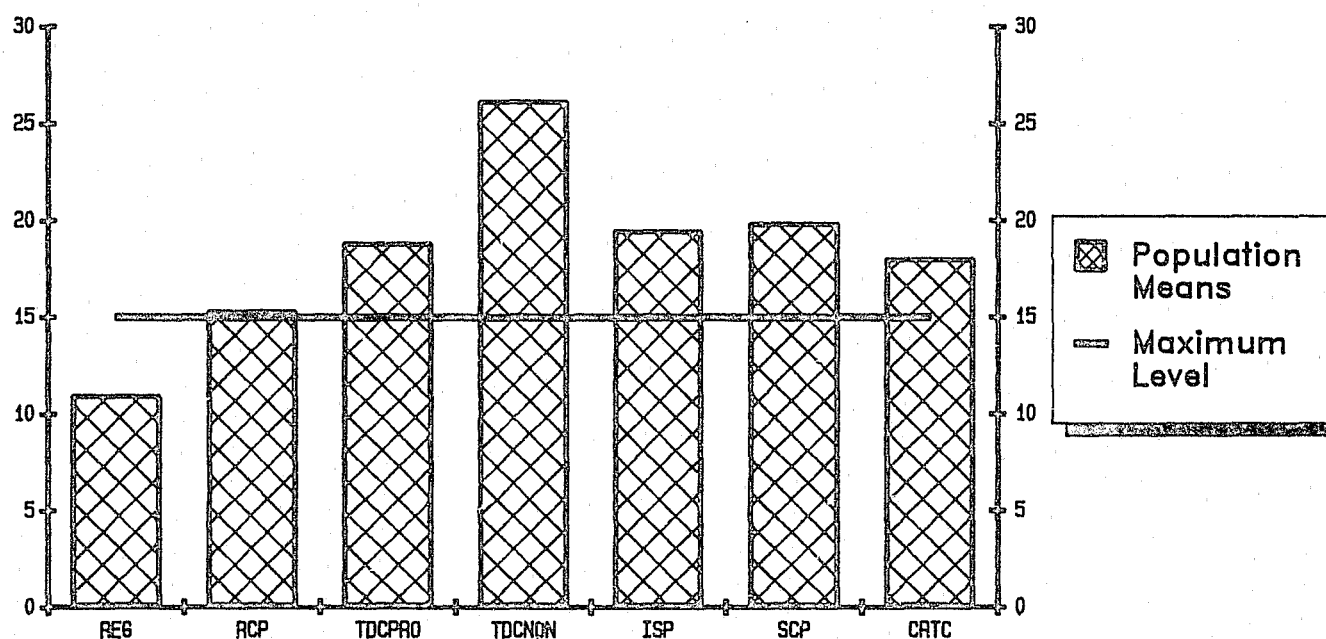


Figure 1 graphically illustrates that regular probationers and the TDC non-probatable inmates are greatly different in terms of risk. Because these populations differ from each other and from the other populations further analysis will focus on the remaining five populations. The mean risk score of the TDC probatable population falls in the middle of the total population. While all mean risk scores are in the maximum range, in relation to the TDC probatable inmates both ISP and Specialized Caseloads probationers have higher mean risk scores and probationers in the Restitution Center and CRTC programs have lower risk scores. Figures 2 through 5 compare distributions on risk scores for the four sub-populations to the distribution of TDC probatable inmates. Figure 2 depicts the distributions on risk scores for Restitution Center probationers and TDC probatable inmates. The TDC probatable inmates have higher mean risk scores than Restitution Center probationers. The distribution of individual risk

Summary

The above analysis substantiates that diversion is taking place. Probationers in diversion programs are more like TDC inmates than they are like regular probationers in the area of risk. Table 1 conclusively demonstrates that the ISP and Specialized Caseload Programs are composed of probationers with a profile similar to TDC probatable inmates. The Specialized Caseload Program was not defined as a diversion program until fiscal year 1988; however, it is apparent that the program has been servicing a risk population which lies between probatable and non-probatable inmates.

Table 1 and Figure 3 show that probationers being served by the CRTC program and the probatable TDC inmates have the same population characteristics. Like Specialized Caseloads, the CRTC program was not defined as a diversion program; however, it is apparent that this program has been servicing a risk population similar to TDC probatable inmates.

scores, however, shows strong similarities between major portions of the two populations.

When the distributions of the scores for residents in the CRTC program and TDC probatable inmates are overlayed (Figure 3) the similarities between the two populations can be observed. The major difference is that the CRTC program has about 8% of its total population clustering at the 15 point score. This brings down the mean score for CRTC probationers. Figure 4 shows scores of ISP probationers in relation to the TDC probatable population. As expected from the means, the two distributions are extremely similar. Finally, the distributions of the scores for the TDC probatable group and Specialized Caseload probationers are presented in Figure 5. This graph shows that the two populations are similarly distributed with the Specialized Caseload population having slightly higher risk scores than the TDC population.

When mean risk scores for Restitution Center probationers and TDC probatable inmates are compared, Restitution Centers have significantly lower risk scores than probatable inmates. While the Restitution Center Program was designated by the Legislature as a diversion program, strict eligibility criteria on admission was attached by law to the program. During the period of time covered by this study, to be placed in a restitution center a probationer had to be a felon who had not committed a violent offense and who was employable. Other special programs can accept offenders, such as violent offenders and unemployable offenders, which cannot be accepted by the Restitution Centers. These differences between the Restitution Centers and the other special programs regarding eligibility criteria must be constantly considered in interpreting the data. These criteria are reflected in the mean score of 15.4078 which is in the low range of maximum risk.

Figure 1
Distribution of Regular Probation and
TDC Non-probatable on Risk Scale

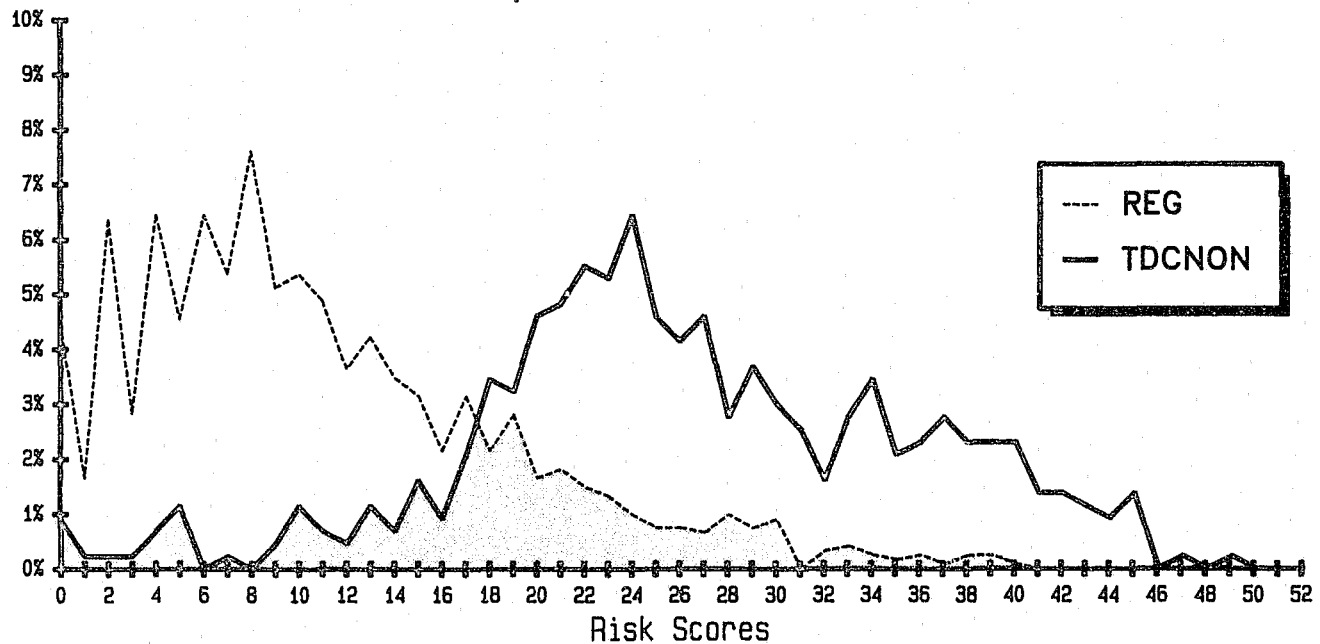


Figure 2
Distribution of Restitution Centers and
TDC Probable on Risk Scale

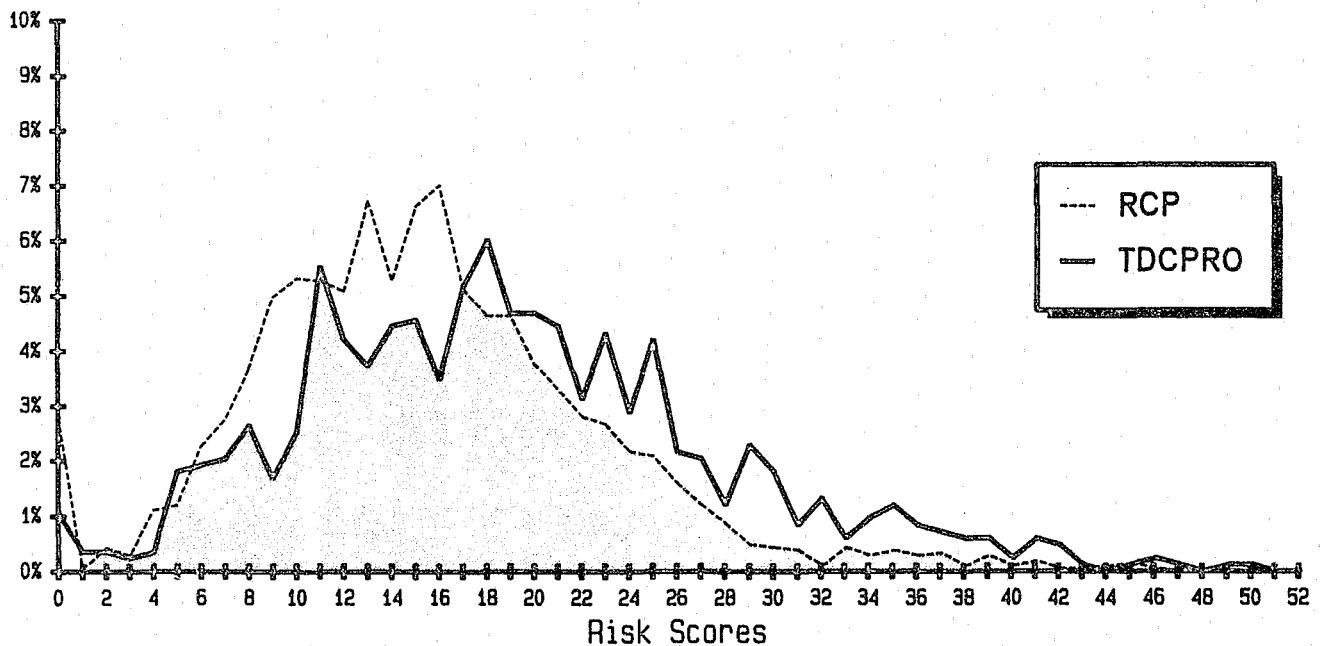


Figure 3
Distribution of CRTC and TDC Probatable on Risk Scale

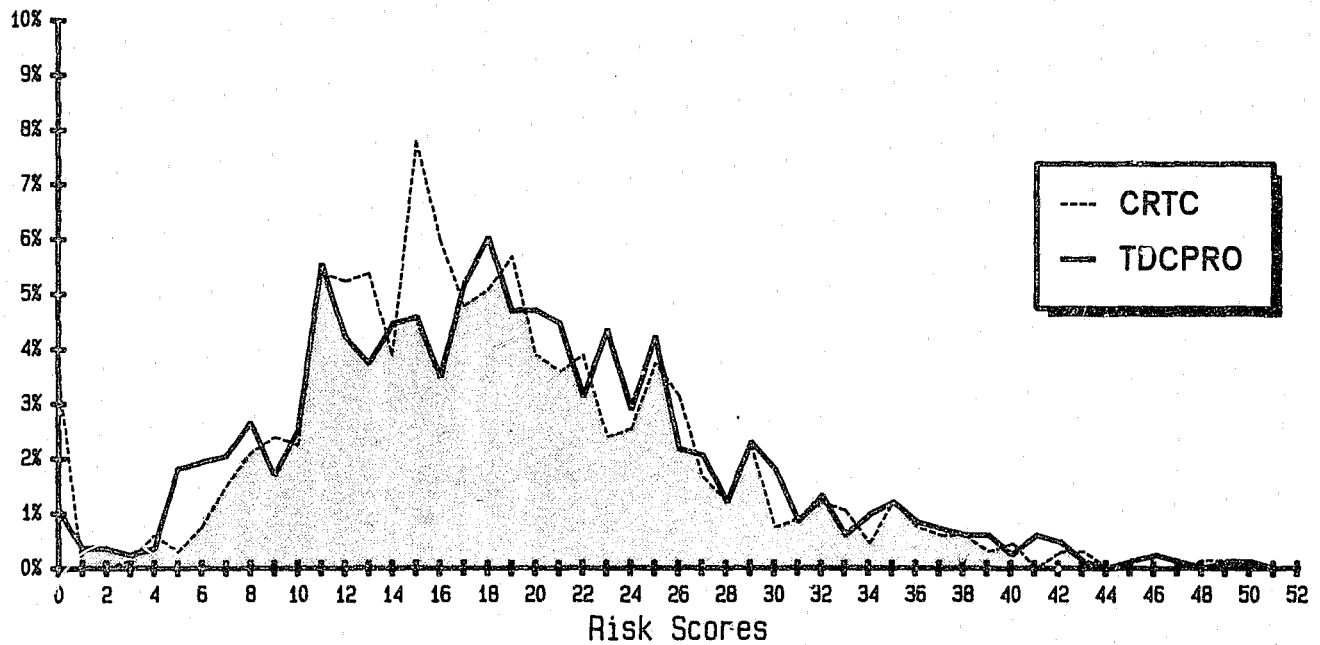


Figure 4
Distribution of ISP and TDC Probatable on Risk Scale

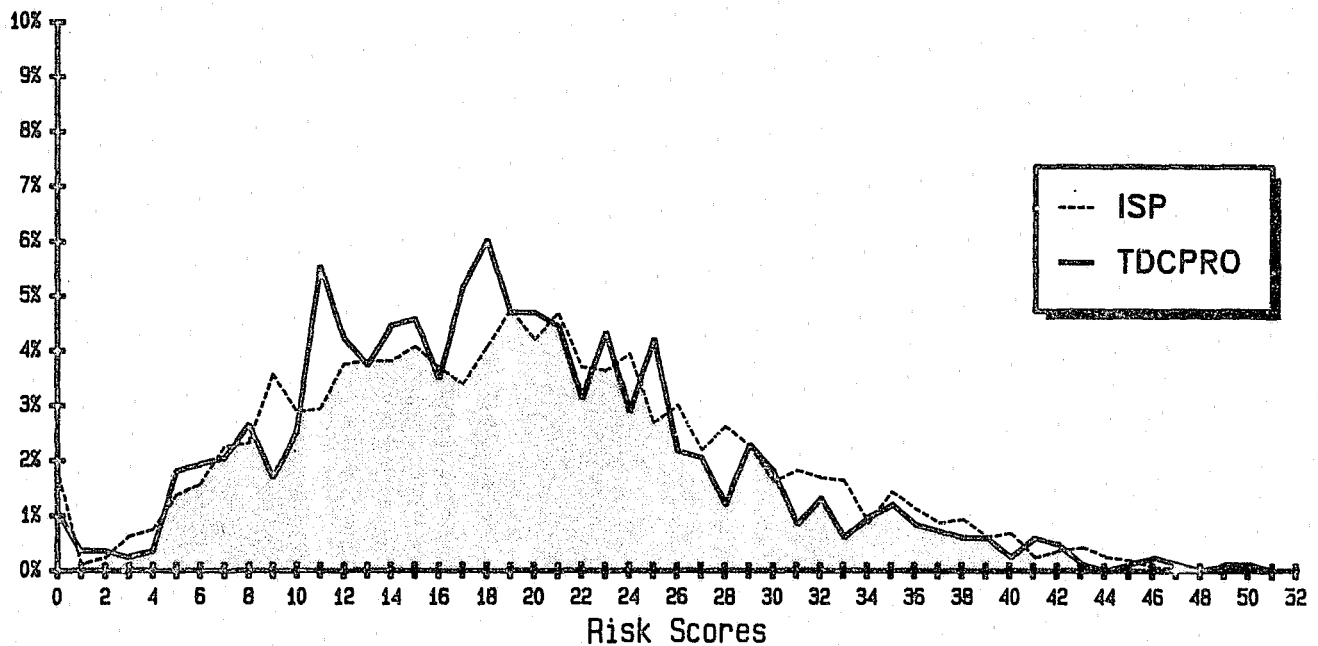


Figure 5
Distribution of Specialized Caseloads
and TDC Probable on Risk Scale

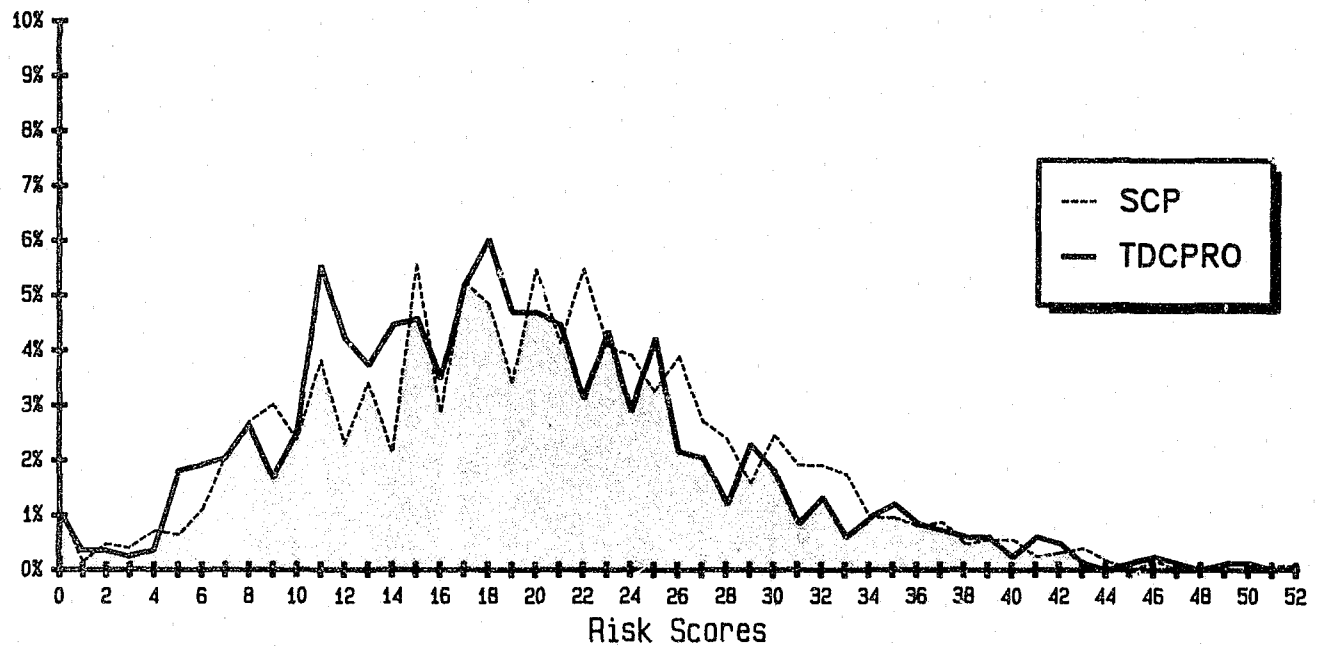


Table 2

Mean Score on Total Needs by Program by Fiscal Year

Year	REG	RCP	Program					AVERAGE MEAN SCORE
			PRO	NON	ISP	SCP	CRTC	
1985								
Means	10.9256	16.9710	—	—	20.4227	21.6736	21.0556	15.4164
Cases	1,210	345	—	—	459	383	36	
1986								
Means	—	14.3949	—	—	20.8399	23.4470	23.4291	18.9035
Cases	—	752	—	—	456	264	289	
1987								
Means	—	16.0412	17.8690	18.7195	21.7214	24.9771	29.7652	20.3661
Cases	—	970	832	435	682	612	345	
Program Total								
Means	10.9256	15.5975	17.8690	18.7195	21.0964	23.6513	26.5642	18.5546
Cases	1,210	2,067	832	435	1,597	1,259	670	

1) The Needs Scale ranges from -8 to 60. The higher the score the greater the needs.

2) Need is categorized as: -8 to 14 is minimum
 15 to 29 is medium
 30 to 60 is maximum

3) Mean is arithmetic average.

Legend:

REG-Regular felony probationers

RCP-Restitution Center

PRO-TDC probatable inmates

NON-TDC non-probatable inmates

ISP-Intensive Supervision

SCP-Specialized Caseloads

CRTC-Court Residential Treatment Centers

Needs Assessment

Table 2 displays information for needs assessments as Table 1 did for risk assessments.

When the data in Table 2 is examined by program several items need mentioning. First, the sub-populations distribute differently on the needs than on the risk scale. The Regular Probation Program has lower average needs scores than the two TDC populations while the other three probation programs, ISP, Specialized Caseload, and CRTC, have higher needs than the TDC inmates. Second, the mean need scores for each of these special programs have increased each year from 1985 to 1987. CRTCs have experienced the greatest increase in need level from 1985 to 1987. It should be noted that TDC probatable inmates have lower mean needs scores than the non-probatable inmates and ISP, Specialized Caseload or CRTC probationers. The mean needs scores of all of the Special Programs and the TDC population fall in the medium category as can be seen on Chart 2.

The sample of regular probation and Court

Residential Treatment Centers form the polar ends of the distribution of scores and are obvious. Figure 6 highlights the difference between the two programs by showing the distribution on needs score for the two populations. When the means in Table 2 and the distributions in Figure 6 are considered it is apparent that these groups are not the same populations.

The TDC probatable group with an average needs score of 17.8690 is the population with which to compare the other sub-populations. The mean scores for probationers in Restitution Centers are compared with the TDC probatable population in Figure 7. The mean needs scores of both sub-populations fall in the medium category. The differences between the two TDC populations is very small as illustrated in Figure 8. These two groups appear to have the same level of needs and generally the same percentage of inmates on any particular score.

A little over 2 points separate the mean needs

Bar Chart 2
Comparison of Needs Scores Versus
Needs Level

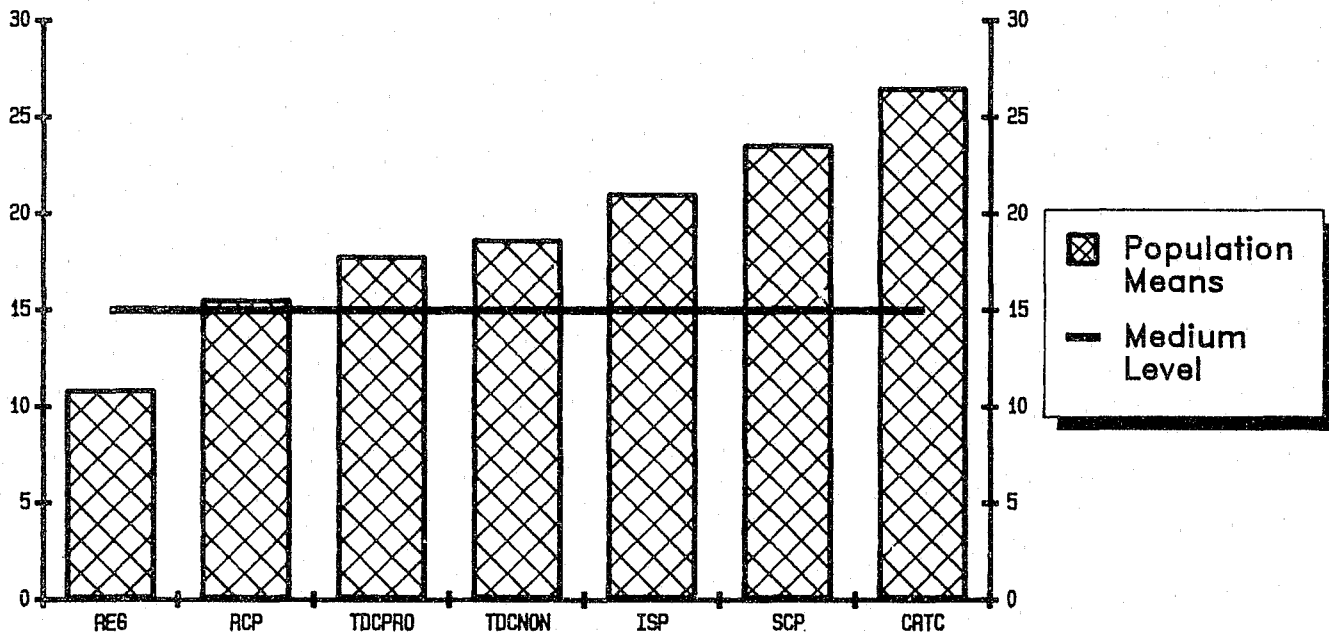


Figure 6
Distribution of Regular Probation and
CRTC on Needs Scale

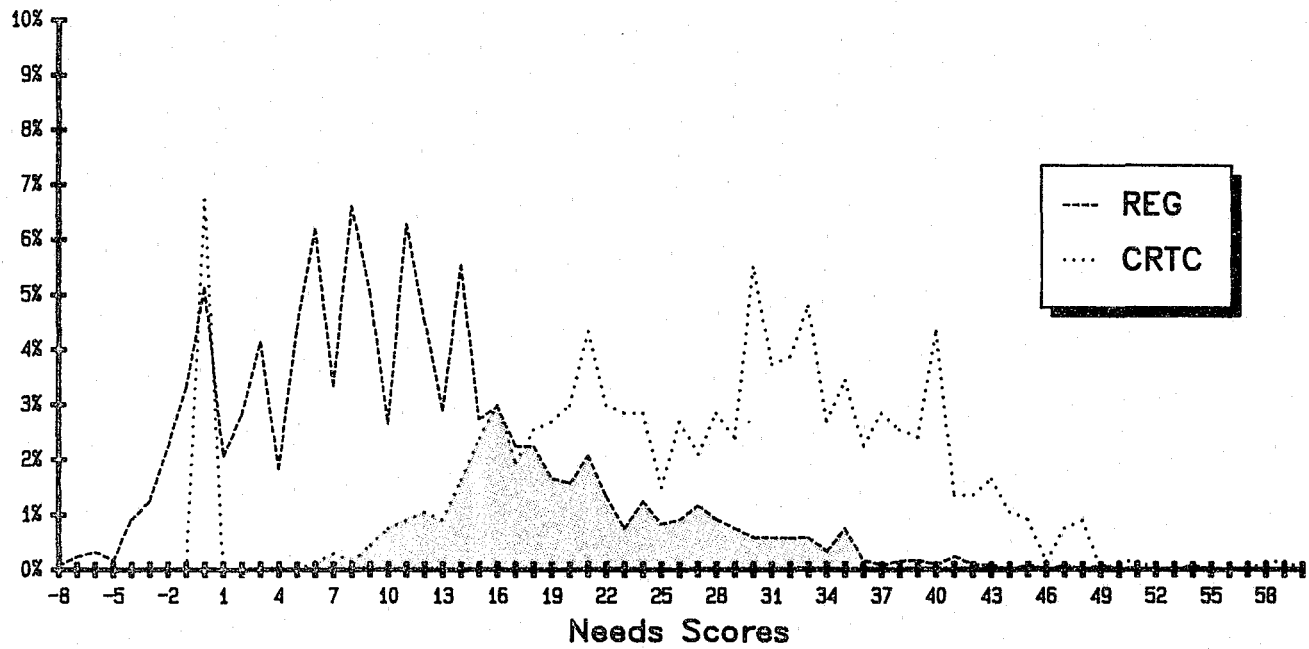


Figure 7
Distribution of Restitution Centers and
TDC Probable on Needs Scale

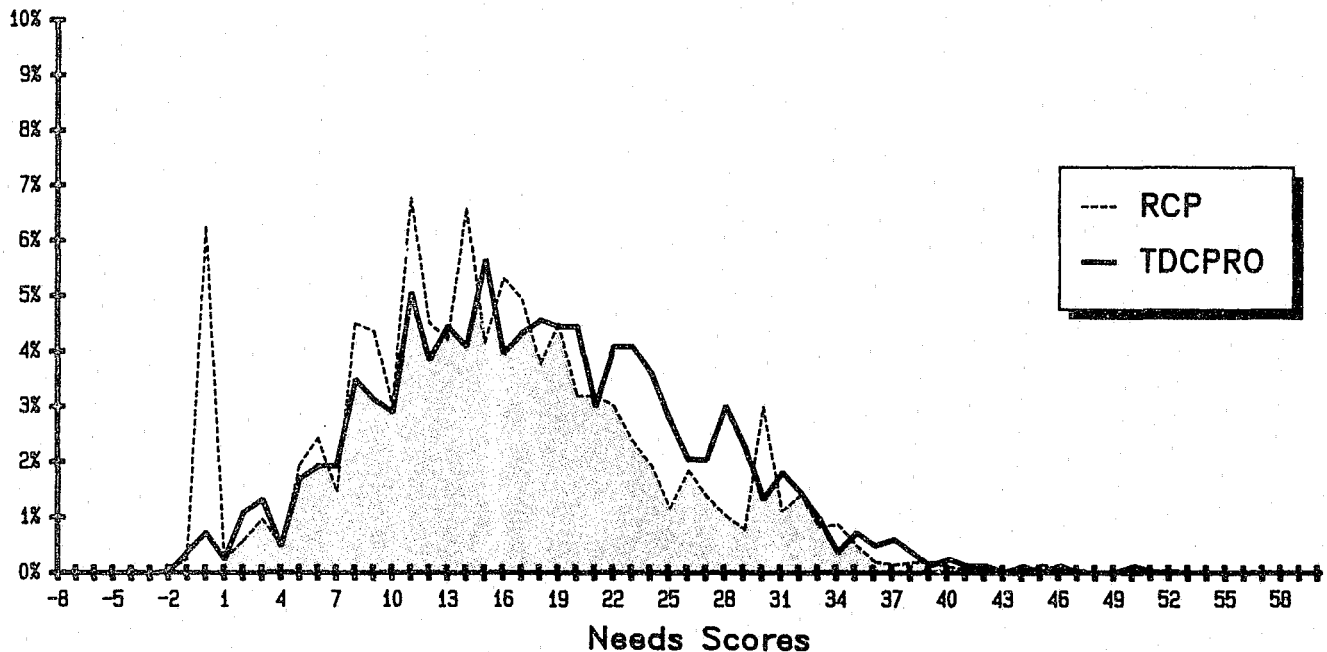


Figure 8
Distribution of TDC Non-probable and TDC Probable on Needs Scale

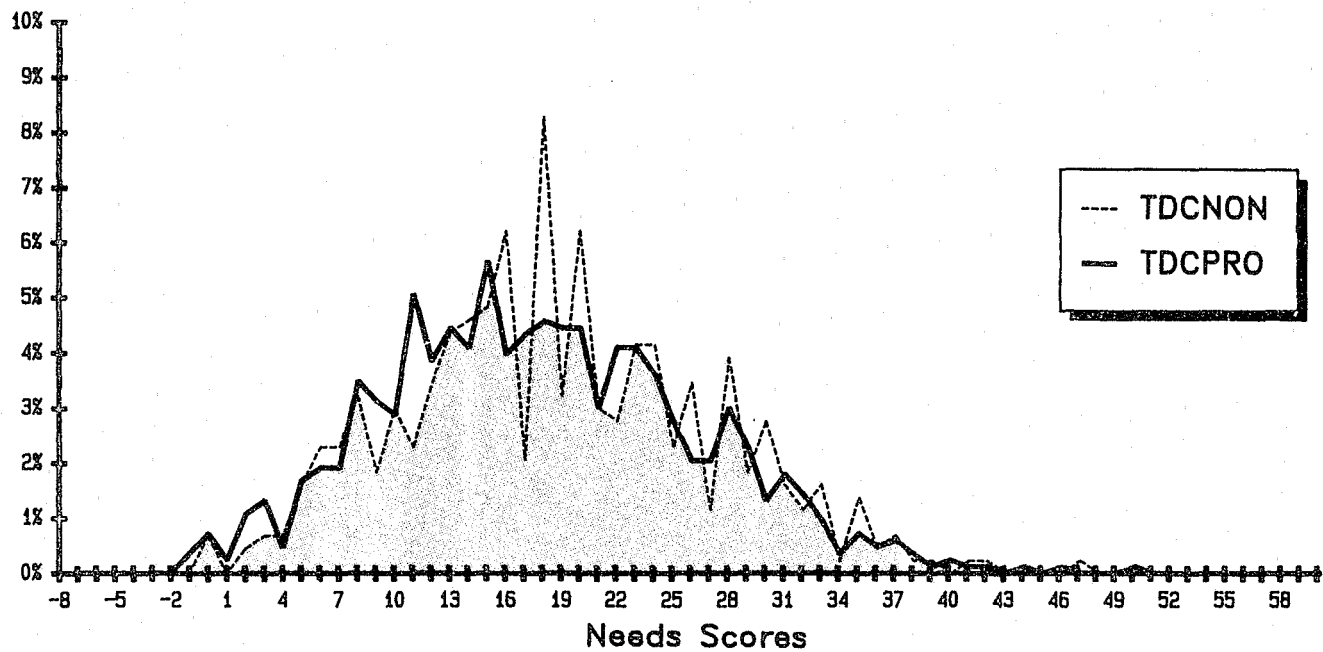


Figure 9
Distribution of ISP and TDC Probable on Needs Scale

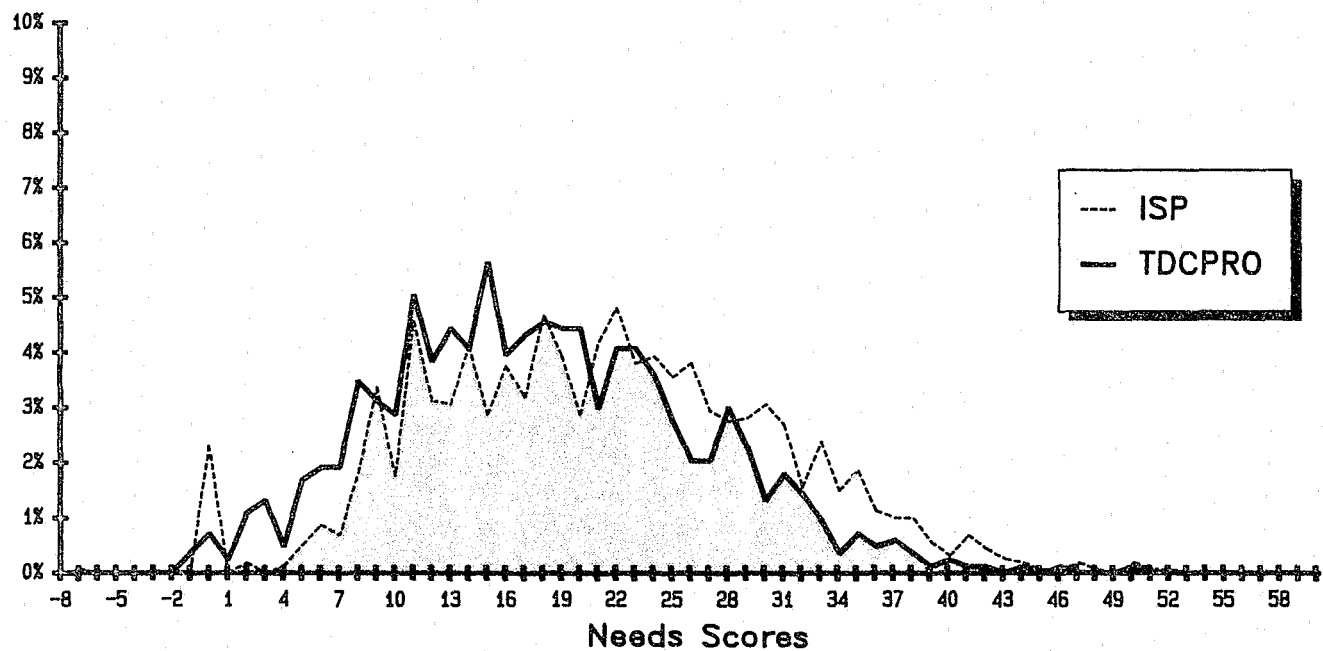


Figure 10
Distribution of Specialized Caseloads
and TDC Probable on Needs Scale

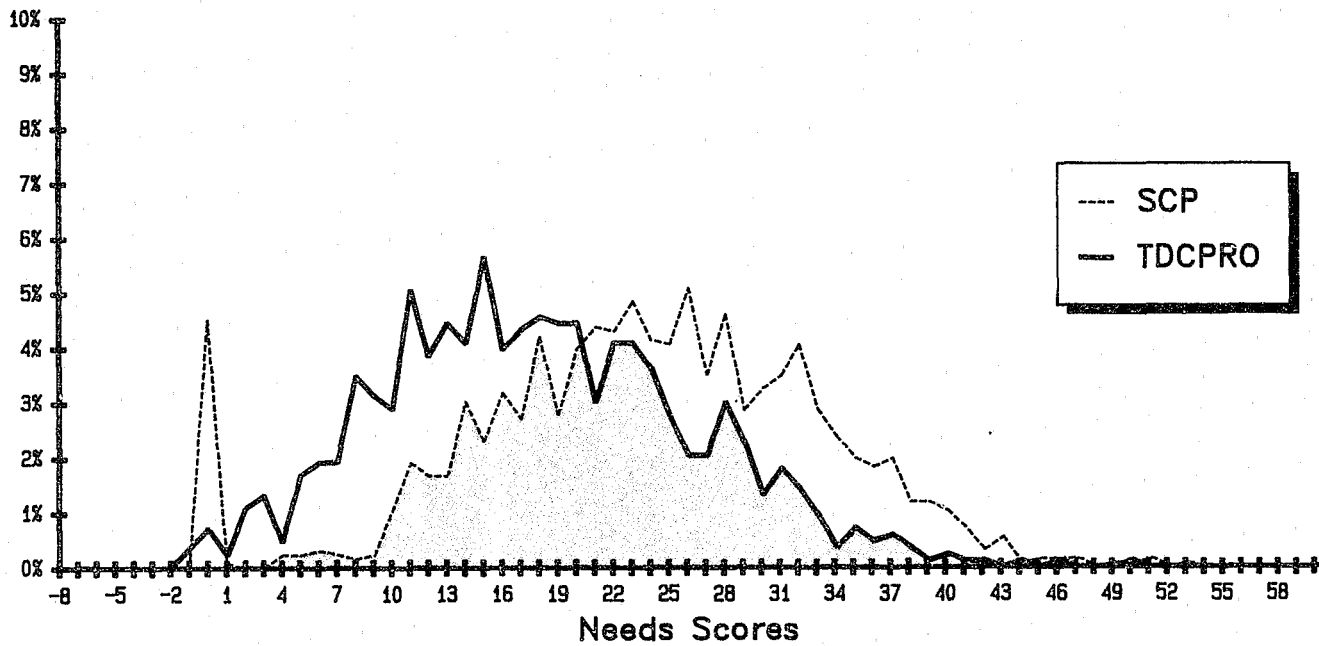
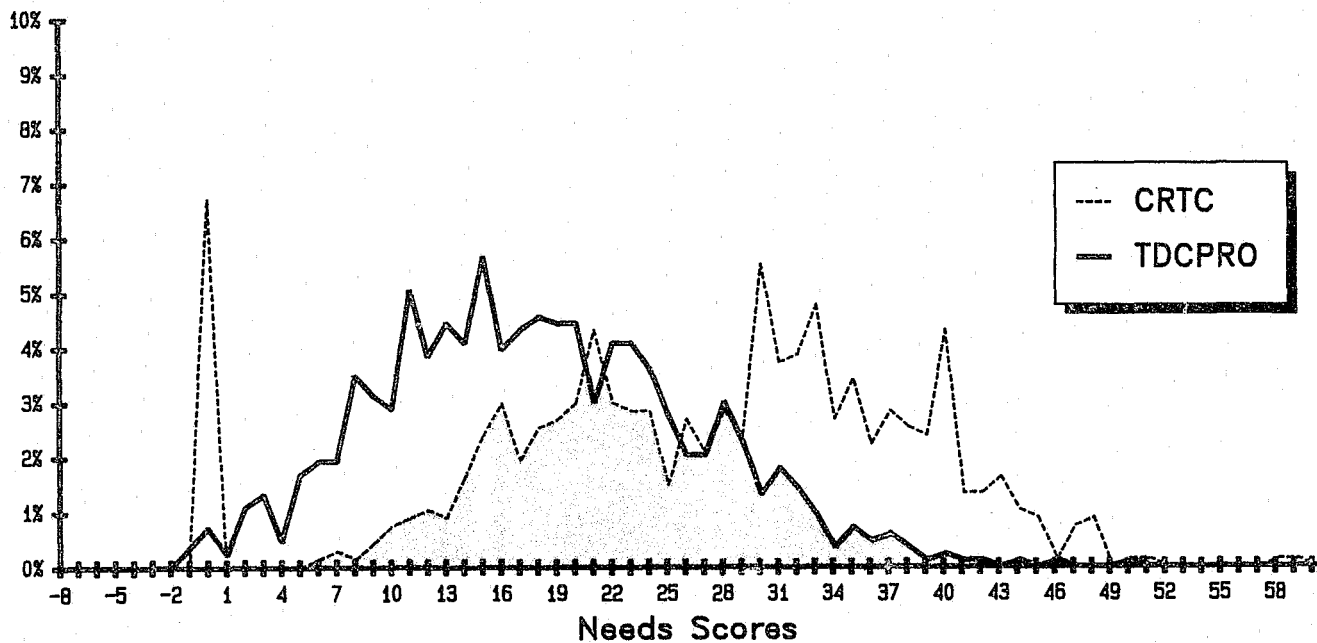


Figure 11
Distribution of CRTC and TDC
Probable on Needs Scale



score for the TDC probatable group and probationers in the ISP program. The higher means score on needs is evident in Figure 9. Note the shift to the higher needs score by the ISP population. The difference between the mean scores for TDC probatables and probationers on the Specialized Caseloads is almost 6 points (Figure

Summary

The above analysis shows that probationers in diversion programs are more like TDC inmates than they are like regular probationers in the area of needs. **This further substantiates that diversion is taking place.** Based on Table 2 there is sufficient reason to conclude that ISP probationers are similar to TDC inmates. The mean needs score for ISP is higher than the mean score for either of the two TDC populations. The Specialized Caseload Program was not defined as a diversion program until fiscal year 1988; however, it is apparent that the caseloads have been servicing a higher need population than the two TDC populations.

10). Almost 9 points separate the mean scores for probationers in the CRTC program and the TDC probatable inmates (Figure 11). There is a large enough difference to maintain that the needs of probationers on Specialized Caseloads and the CRTC program make up a group with much greater needs than the two TDC groups.

The characteristics of CRTC probationers is evident on the needs scores. CRTC probationers have the highest overall score on the needs scale. When scores for Restitution Center probationers are compared to either of the TDC groups, the Restitution Center probationers have lower needs scores than either TDC population. This score falls within the medium category as do the scores of the other special programs and the TDC inmate groups. The eligibility criteria plays a role in the lower need scores.

Conclusion

The purpose of this report was:

1. To substantiate that diversion was taking place by using a different methodology; and
2. Determine if similarities exist between the special programs and the TDC probatable inmate population which would indicate additional diversion potential.

The findings show that:

1. The mean risk and needs scores and the distribution of risk and needs scores for the TDC probatable inmate population and the special program probationers indicate that they are similar populations and this demonstrates that diversion is, indeed, occurring thereby sub-

stantiating the diversion decision of the courts.

2. There is sufficient overlap between the TDC and special program populations in terms of risk and needs scores to conclude that there is additional diversion potential.
3. The mean risk and needs scores of special program probationers differ from those of regular probation enough to conclude that they are not made up of probationers with the same level of risk and needs.
4. There is strong evidence that high risk and/or high needs scores obtained with the TAPC case classification system is a valid measure of diversion potential.

Recommendations

Based on the data in this report, the TAPC would like to make the following recommendations for legislative action to improve the diversion potential of the probation system:

1. Adopt a definition of "diversion" based on the TAPC case classification system.

Although no precise definition of the term "diversion" exists, a working definition has been generated by the use of that term in the legislative appropriations process. It has come to refer to the process of placing on probation criminal defendants who would otherwise have been sentenced to prison. The documentation of a diversion, in practice, has come to mean a showing that the person has such an extensive criminal record and/or has committed such a serious offense that he would have been incarcerated if the diversion program had not existed.

Although most of the people who fall within that definition are good candidates for diversion programs, they are not the only defendants who could be diverted from prison by close supervision. Many first offenders do not qualify as diversions under the present working definition, but do not receive an adequate level of supervision on regular probation. These people are at the highest risk for revocation, which contributes significant numbers to the population pressure on the prison system.

Over the last several years, the TAPC has developed a case classification system which uses an evaluation instrument known as the "risk/needs assessment." This evaluation instrument has been adapted from a successful evaluation program first developed in Wisconsin. It takes the defendant's criminal record and the seriousness of the offense into account, but it also uses other significant factors to determine the relative risk of repeated criminal behavior posed by the individual and his need for rehabilitative services. As a tool to determine the need for a high level of supervision, it is far superior to assessments based only on criminal record and offense.

Expanding the working definition of diversion to include defendants who score high on the risk/needs assessment would increase the ability of the probation system to respond to individuals who are at high risk of revocation. This would result in an ultimate reduction in the population pressure on the prison system.

2. Expand the capacity of diversion programs.

Most probation diversion programs are filled to their present capacities. If these capacities were increased, new diversions could be drawn from two populations. One would be probationers subject to revocation for administrative violations or

minor subsequent offenses. These people are sometimes revoked not because of the seriousness of the violation, but because they have shown over a period of time that they will not comply with the conditions of probation while under regular probation supervision. Many probationers in this category do well at the higher level of supervision provided by diversion programs, when diversion programs are an available option. However, altogether too frequently, they must be revoked to prison sentences because there are no open slots in the diversion programs.

The other potential diversion population is composed of those prison inmates who were eligible for probation but were sentenced directly to prison. Risk/needs assessments have shown that those people have characteristics that are very similar to the probationers who are in diversion programs. In some cases, the probationers have even higher risks and needs scores. But again, space in diversion programs is frequently not available. If diversion capacity were expanded more of these people could be included.

It is generally well known that the state's prison population is becoming "hardened" because of

the increasing percentage of violent and recalcitrant inmates in that population. However, a similar phenomenon is occurring in probation. The more serious felony probationers now overlap with the less serious prison inmates in terms of risk to public safety and need for rehabilitative services. Regular probation supervision is not adequate to deal with this more serious class of offenders. If they are to be supervised on probation at a level that will minimize the risk of new offenses and revocations, more capacity must be provided in diversion programs with a higher level of supervision.

3. Improve the capacity for data collection in the corrections system.

The data analyzed for this report, while reliable as far as it goes, is limited because it was acquired during different time frames. The present capacity of the various elements in the system to gather current, contemporaneous information is severely limited. With more current data, this and other studies could more reliably predict the future needs of the corrections system, and show the most cost effective ways to prepare for and meet those needs.

Notes

1. A proportionate probability sample means that the larger the department, the greater the probability of being selected for the sample; however, there is less probability for any individual within that department to be selected. A smaller department has less likelihood of being selected; but, if selected, any individual within the department has a greater probability of being selected.
2. Article 42.12, Section 3g, of the Texas Code of Criminal Procedure states that a defendant adjudged guilty of the following offenses are not eligible for probation unless granted by a jury: capital murder, aggravated kidnapping, aggravated sexual assault, aggravated robbery, or any felony offense where the defendant used or exhibited a deadly weapon during the offense or in immediate flight.
3. Ibid.