

Federal Probation

Divided by a Common Language: British and American Probation Cultures *Todd R. Clear*
Judith Rungay

Alternative Incarceration: An Inevitable Response to Institutional Overcrowding *Richard J. Koehler*
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Reforms, Statements and Reform in Juvenile Justice: A Re-evaluation of the "Balanced Approach" *Gordon Bazemore*

Looking at the Law—Counting the Days: When Does Community Supervision Start and Stop? *Toby D. Slawsky*

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This Issue in Brief

Divided by a Common Language: British and American Probation Cultures.—American and British probation officers speak the same language but—according to authors Todd R. Clear and Judith Rumgay—have very different approaches to their jobs. The authors explore the important differences between the two probation traditions and their impact on the development of probation supervision in both countries.

Alternative Incarceration: An Inevitable Response to Institutional Overcrowding.—Authors Richard J. Koehler and Charles Lindner discuss alternative incarceration programs—programs for offenders who do not require the total control of incarceration, but for whom probation is not an appropriate sentence. The authors highlight New York City's Supervised Detention Program, a program which provides an alternative to pretrial jail incarceration, as an illustration.

Variations in the Administration of Probation Supervision.—Authors Robert C. Cushman and Dale K. Sechrest explore the reasons for the great diversity in the operations of probation agencies, including differences in caseload size and services provided. They document variations in felony sentencing and use of probation for 32 urban and suburban jurisdictions using data primarily collected by the National Association of Criminal Justice Planners.

An Evaluation of the Kalamazoo Probation Enhancement Program.—Noting that few studies have evaluated halfway houses designed exclusively for probationers, authors Kevin I. Minor and David J. Hartmann report on a study of a probation halfway house known as the Kalamazoo Probation Enhancement Program (KPEP). Findings reveal that while relatively few residents received successful discharges from KPEP, those who did were less likely than those who received unsuccessful discharges to recidivate during a 1-year followup period.

Criminalizing Hate: An Empirical Assessment.—Author Eugene H. Czajkoski focuses on a fairly new phenomenon in the criminal justice taxonomy, hate crime. He discusses the recent movement to

criminalize certain forms of hate and examines data officially reported by the State of Florida regarding the first full calendar year of operation of its hate crime law.

Pretrial Bond Supervision: An Empirical Analysis With Policy Implications.—Author Keith W. Coopridge discusses policy and operational implications derived from an empirical analysis of bond supervision data obtained from a county-based pretrial release program. He analyzes the use of electronic monitoring and describes patterns of success and failure on bond supervision.

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Variations in the Administration of Probation Supervision

BY ROBERT C. CUSHMAN AND DALE SECHREST, D.CRIM.*

RECENT RESEARCH provides¹ a revealing and comprehensive perspective of felony probation in the United States. A major theme which has surfaced in the research is the great diversity and variety that characterizes felony probation agencies, felony probation clients, and felony probation personnel. This article provides a framework for understanding the origins, dimensions, and implications of these differences.

This examination provides a "lens" for viewing probation—a lens through which the variations in probation take on new meaning. The analysis progresses as a set of steps showing variations among probation agencies across the United States. The article ends with a summary of conclusions and policy implications for probation administrators.

The NACJP Research

The National Association of Criminal Justice Planners (NACJP) has compiled a 7-year series of studies which provide a national picture of felony sentencing outcomes.² This work was supported by financial assistance from the U.S. Department of Justice, Bureau of Justice Statistics. These studies, and related research,³ provide basic descriptive information about probation agencies, the people they supervise, and the services they provide. This NACJP research is the basis for the material presented in this article.⁴

Variations in Sentencing

The NACJP studies confirm that the origin of the variations in felony probation practices lies in the sentencing process itself, to include differences in the number of citizens per 100,000 population sentenced as felons, the proportion of these sentenced felons who receive probation, and the size and characteristics of the probation case load.

Table 1 illustrates this point. It shows the number of felony sentences per 100,000 sentenced in 32 urban and suburban jurisdictions in calendar 1986,⁵ the percent of those persons who received a sentence which included a probation term, and, as a result, the rate of persons per 100,000 that were routed to a probation agency as a result of the felony sentencing process in that time period.

Expressing this information as a rate per 100,000 provides a standardized way of comparing jurisdictions of differing size. In effect, the data in the table mean, if all of these jurisdictions had populations of 100,000 people, column 4 would show the number of persons who received felony sentences, and column 6 would show the number of persons convicted of a felony who received probation.

Column 4 of table 1 shows that the rate at which persons receive felony sentences ranged from 97 per 100,000 population in Erie County (NY) to 690 per 100,000 population in Oklahoma County. Column 5 of table 1 shows that the percent of those receiving felony sentences involving probation ranged from 30 percent in New York County to 75 percent in Hennepin County (MN). Column 6 of table 1 shows the rate per 100,000 population of persons placed on probation ranged from 39 per 100,000 population in Erie County to 462 per 100,000 in Oklahoma County.

When these three indicators are looked at together, it is clear that there are great differences in the number of persons assigned to probation in these 32 urban and suburban jurisdictions. These comparisons across jurisdictions raise questions about why there are such wide variations in measures that characterize probation operations.

Differences in the statutory frameworks among the states clearly account for some of the variation. For example, courts in determinate sentencing states (with no parole board) tend to use probation much more frequently than courts in indeterminate sentencing states (with a parole apparatus). California, a determinate sentencing state, and its counties sentence to probation in the 60 percent range. New York, an indeterminate sentencing state, and its counties sentence in the 40 percent range.

Because there are so many exceptions to these general patterns, the variation that exists among jurisdictions cannot be totally, or even substantially, explained by the fact that probation is operating under different statutory frameworks. Note that 6 of the 32 jurisdictions are from one state (California) and that there are great differences in the three indicators among the California counties. The Texas and New York jurisdictions provide other "within state" examples.

One would expect that jurisdictions with high serious crime rates would also have high felony sentencing and felony probation rates. An examination of this information shows these relationships are not as expected. The serious crime rates for the California jurisdictions pre-

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sented in table 2 indicate that the California county with the *lowest* serious crime rate, Santa Clara County (1,845 crimes per 100,000 population), has the *highest* felony sentencing rate (434), the second highest percent sen-

tenced to probation (66 percent) and the highest number of felons sentenced to probation per 100,000 population (287).

TABLE 1. PROFILE OF THE POPULATION SIZE, THE NUMBER OF PERSONS RECEIVING FELONY SENTENCES PER 100,000 POPULATION, PERCENT OF 1986 FELONY SENTENCES, THE NUMBER OF PERSONS SENTENCED TO PROBATION IN 1986 PER 100,000 POPULATION, AND THE AVERAGE RISK SCORE FOR THE 32 JURISDICTIONS PARTICIPATING IN THE NACJP STUDY

Jurisdiction (County Unless Specified)	State	1986 Population	Felony Sentences per 100,000 Population	Percent Sentenced to Probation in 1986	Number of Persons Sentenced to Probation per 100,000 Population	Average Risk Score
Total		50,715,000	312	51%	161	4.5
Maricopa	AZ	1,900,200	394	71%	279	4.1
Los Angeles	CA	8,295,900	378	60%	225	4.7
Orange	CA	2,166,800	156	65%	102	5.3
San Bernardino	CA	1,139,100	172	39%	68	3.9
San Diego	CA	2,201,300	308	67%	207	4.6
San Francisco	CA	749,000	411	55%	225	5
Santa Clara	CA	1,401,600	434	66%	287	6.6
Ventura	CA	611,000	125	62%	77	NA
Denver	CO	505,000	241	48%	118	5.4
Dade	FL	1,769,500	415	34%	141	NA
Honolulu	HI	816,700	144	59%	86	3.8
Cook	IL	5,297,900	269	43%	118	4
Jefferson	KY	680,700	206	39%	76	3.5
Baltimore City	MD	752,800	370	39%	141	3.5
Baltimore	MD	670,300	227	64%	119	4.3
Hennepin	MN	987,900	171	75%	128	5
St. Louis City	MO	426,300	512	44%	223	4
St. Louis	MO	993,200	182	58%	104	3.5
Erie	NY	964,700	97	40%	39	3.9
Kings	NY	2,293,200	285	42%	117	3.8
Monroe	NY	702,600	109	44%	48	4.4
Nassau	NY	1,323,000	126	41%	52	3.2
New York	NY	1,478,000	599	30%	176	3.5
Suffolk	NY	1,312,000	158	65%	97	4.2
Franklin	OH	907,000	234	41%	95	2.6
Oklahoma	OK	630,300	690	66%	462	7.2
Philadelphia	PA	1,642,900	282	44%	125	4.3
Bexar	TX	1,170,000	311	56%	174	3.3
Dallas	TX	1,833,100	434	44%	191	NA
Harris	TX	2,798,300	457	33%	151	3.9
King	WA	1,362,300	238	72%	173	7.3
Milwaukee	WI	932,400	284	61%	173	5.4

TABLE 2. PROFILE OF CALIFORNIA COUNTIES: SERIOUS CRIME RATE, FELONY SENTENCES PER 100,000 POPULATION, PERCENT SENTENCED TO PROBATION IN 1986, NUMBER OF PERSONS SENTENCED TO PROBATION PER 100,000 POPULATION AND AVERAGE RISK SCORE

County	State	1986 Population	Serious Crime Rate	Felony Sentences per 100,000 Population	Percent of Convicted Felons Sentenced to Probation in 1986	Number of Felons Sentenced to Probation per 100,000 Population
Los Angeles	CA	8,295,900	4357	378	60%	225
Orange	CA	2,166,800	2713	156	65%	102
San Bernardino	CA	1,139,100	3711	172	39%	68
San Diego	CA	2,201,300	3213	308	67%	207
San Francisco	CA	749,000	3584	411	55%	225
Santa Clara	CA	1,401,600	1845	434	66%	287
Ventura	CA	611,000	1958	125	62%	77

One can only conclude that there is considerable unexplained variation in felony sentencing policies which, in turn, creates great variation in the numbers and, as discussed later in this article, the characteristics of persons placed on probation in different jurisdictions.

Variations in Probation Workload

Variations in the number of admissions, their length of stay, and the characteristics of persons who are placed on probation represent other important sources of differences found when probation agencies are compared with one another.

The size of the probation workload is determined not only by the number and percentage of convicted felons sent to probation, but by length of stay as well⁶. Given a constant rate of admissions, the size of the probation workload and the characteristics of persons supervised will vary according to changes in the average length of stay for the various types of probationers.

The NACJP research shows that length of stay on probation varies considerably across jurisdictions. Cunniff reports,

On average, 39% of all felony cases are closed each year. If this held constant, it would imply a total turnover in the probation case load every 2.5 years. The percent of cases closed, however, differs widely among the responding agencies. Santa Clara County closed 69% of its felony cases in 1988, a rate that would generate a total turnover in the felony probation case load every 18 months. Bexar County (TX), on the other hand, only closed 25% of its felony case load during the same time period. With a 25% rate of closed cases, Bexar County would take four years to turn over its felony case load.⁷

When rate of admissions and length of stay are combined they create workloads which differ markedly in workload size and mix (in the types and severity of cases). These changes in the "mix" of client types and the average lengths of stay of each type can have significant impact on the staff and programming that needs to be provided to felony probationers. For example, according to Cunniff,⁸

... at the start of 1988, 20% of Ventura County's case load was composed of felony probationers. At the close of the year, felony probationers constituted just 11% of the total case load. This development occurred primarily because the court mandated the placement of drunk drivers on formal probation, precipitating a tremendous growth in the number of misdemeanor probationers. The drop in the share of workload attributable to felony probationers was not the result of a decline in the number of felony probationers, but rather the result of a sharp increase in misdemeanor probationers.

Surprising variations show up even within individual states. Cunniff continues...

The three Texas counties differ widely in the numbers and types of probationers under supervision although all are responsible for the same type of clients—adult felony and misdemeanor probationers. Bexar County's (San Antonio) felony case load constitutes only 37% of its total workload, while the percentage shares for Dallas and Harris (Houston) Counties are substantially higher (65% and 53%, respectively).⁹

Table 1 data indicate that Bexar County has the highest percent for persons sentenced to probation among the three Texas counties (56%).¹⁰ Thus, we would expect this county to have a larger percentage of felony probationers, not a smaller percentage! There may also be a high probation rate in the lower courts of Bexar County which could generate the difference noted here.¹¹

The last column of table 1 represents a risk score for the probation populations in the jurisdictions under study.¹² This score was created from five variables that correlate with probationer outcomes: the age of the probationer; employment status; drug abuse history; prior felony convictions; and the number of address changes in the year prior to sentencing.¹³ The risk scores indicate that there is considerable variation among the jurisdictions in terms of the risk that the probation population presents to the community.

At the 1990 annual meeting of the American Probation and Parole Association, the chief probation officers from Hennepin County, Minnesota (Minneapolis), and Cook County, Illinois (Chicago), were on a panel which discussed the risk scores reported in the NACJP studies. The chief probation officer from Cook County expressed surprise that the average risk score of the probationers in his department (4.0) was lower (i.e., less severe) than the average score in Hennepin County (5.0). It seemed counterintuitive.

The explanation was that Hennepin County is located in a community corrections act state with a strong commitment to community-based programs, which serve to keep people in the community. Cook County, on the other hand, operates in an environment that used probation more sparingly. Thus, it made sense that the Hennepin County felony probation caseload had higher risk scores.

Wide variation between counties within one state are often found. In California the average risk scores for felony probationers range from a low of 3.9 in San Bernardino County, to a high of 6.6 for felony probationers in Santa Clara County. The NACJP research showed that across jurisdictions higher risk scores were associated with probation outcomes of more frequent arrest¹⁴; more frequent disciplinary actions,¹⁵ including violation of probation¹⁶; and increased difficulty meeting the behavioral and financial conditions of probation.¹⁷

Mark Cunniff, author of the NACJP study, explains...

There is a statistical relationship between the percent of cases receiving probation and the average risk score among the jurisdictions (Pearson's $r = 0.61$). This is anticipated as jurisdictions with high percents of sentences to probation are likely to be placing higher risk persons on probation. So the high average risk score for Hennepin County, Minnesota (5.0) and the low average risk score for New York County, New York (3.5) is expected.¹⁸

The research serves as an endorsement for the use of reliable, valid risk score classification of the felony probation population. It also tells us that unless analysts control for risk scores, it may be misleading to compare

the probation outcomes of probationers in different jurisdictions using the common measures of probation performance; that is, rearrest, disciplinary actions, including violation of probation, difficulty in meeting behavioral and financial conditions of probation, and so forth. This is because very different felony probationer populations are being supervised in different jurisdictions.

We can summarize the major sources of variation at this point by saying first, while there appears to be no clear relationship between sentencing practices and crime rates, variation is certainly created by different felony sentencing practices. These felony sentencing practices create probation caseloads of varying sizes and types in different jurisdictions. They also produce caseloads which have distinctly different average risk scores. Second, differences in the number admitted and length of stay of probationers produce distinctly different probation caseloads among probation agencies.

We now move to a third major source of variation: differences in the amount of money devoted to each probation agency and the choices made that result in differences in the way probation agencies are organized and how probationers are supervised.

Variations in Probation Organization

Many of the variations in the way probation departments are organized and probationers are supervised can be traced to efforts to match resources to workload. The NACJP work provides useful information about five characteristics which differentiate probation agencies: 1) the assignment of probationers to five different levels of supervision and the number of case contacts per month associated with each level of supervision¹⁹; 2) the ratio of probation officers to probationers²⁰; 3) the supervisor to probation officer staff ratios²¹; 4) probation officer salaries and benefits, entry level education and experience criteria, training and related indicators²²; and 5) the number, quality and diversity of programs and services that are provided to probationers.²³ It is likely that these variations affect felony probation services in important (but at this time in largely unknown) ways.

Matching Workload to Resources

When faced with the task of organizing a probation supervision workload, the managerial exercise required of the probation manager is to first divide the probationer population into appropriate levels of supervision; then, allocate the probation officers available to each level of supervision with some expectation of the number of case contacts they should make with each probationer, each month.

This exercise is bounded by the resources that are available and the size of the total workload. The resulting arrangement tends to be worked out in different ways among jurisdictions so, for example, what becomes

intensive supervision in one jurisdiction may look quite different from intensive supervision in another.²⁴

Table 3 shows that the preferred number of contacts for each level of supervision varies as expected²⁵ and the direction of the assignments makes sense: Contact with probationers decreases as the level of supervision moves from Intensive to Maximum . . . to Minimum.

Probationer to Probation Officer Ratio

Table 4 shows the estimated probationer to probation officer ratios.²⁶ Though the NACJP research tried to get the actual number of contacts and actual staff ratios, they could not be obtained, but the research did capture information about the "preferred" probationer to probation officer ratio. Interestingly, both the preferred and the estimates of probationer to probation officer ratios show wide variation across the jurisdictions which were involved in the NACJP research.

Ratio of Probation Officers to Supervisors

The ratio of supervisors to probation officers can serve as a "proxy" measure of the quality of the probation service in a jurisdiction. The smaller ratios imply more supervision, more training, more deliberation, and, hopefully, better probation supervision. The NACJP studies ascertained the actual and preferred supervisor to probation officer ratio in 25 of the jurisdictions in the study (see table 5).²⁷ It shows the actual ratio ranges from a low of 5:1 in Dallas, Denver, and Nassau Counties and New York City, to a high of 14:1 in Jefferson County (KY). The average ratio was 7:1.

Probation Officer Salaries and Fringe Benefits

The NACJP studies document the variation in probation officer salaries and fringe benefits.²⁸ The average entry level salary paid by locally administered probation agencies (\$23,100) is higher than the state figure (\$18,700). Among locally administered agencies, the highest paid entry-level salary for probation officers occurs in San Francisco (\$29,900) and Los Angeles (\$29,780); the lowest entry level salaries were found in Cook County (\$20,340) and Bexar County (\$20,448).²⁹

The variation in salaries does not, by itself, lead to a conclusion that the probation officers in a higher paying jurisdiction are more skilled than the probation officers in lower paying jurisdictions. Salaries tend to be "pegged to the market" and vary from region to region.

The NACJP studies document differences in the education and experience criteria which are necessary before an applicant will be considered for an entry level probation officer position.³⁰ Required training for new probation officers ranged from a low of 38 hours in New York City, to a high of 460 hours in Oklahoma County.³¹ In-service training requirements and practices also vary.³²

When these factors—salaries, benefits, supervision, prior education/experience, training—are added together,

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TABLE 3. PREFERRED FREQUENCY OF CONTACT BETWEEN THE PROBATION OFFICER AND THE PROBATIONER, BY SUPERVISION LEVEL TO WHICH THE PROBATIONER IS ASSIGNED

Jurisdiction		Intensive 9.8 per month	Maximum 2.3 per month	Medium 0.9 per month	Minimum 0.3 per month
Agency Average					
Baltimore City	MD	NA	2.0	0.5	0.3
Baltimore County	MD	NA	2.0	0.5	0.3
Bexar County	TX	NA	1.0	0.4	0.0
Cook County	IL	NA	1.0	0.1	0.0
Dade County	FL	8.0	4.0	2.0	1.0
Dallas County	TX	12.0	2.0	1.0	0.3
Denver	CO	12.0	2.5	1.5	0.5
Erie County	NY	NA	2.0	1.0	1.0
Franklin County	OH	NA	NA	NA	NA
Harris County	TX	NA	2.5	1.0	0.3
Hennepin County	MN	NA	2.5	0.5	0.3
Honolulu	HI	NA	2.0	1.0	0.3
Jefferson County	KY	NA	6.0	3.0	0.3
King County	WA	NA	NA	NA	NA
Los Angeles County	CA	12.0	NA	0.3	0.0
Maricopa County	AZ	16.0	2.0	1.0	0.3
Milwaukee County	WI	6.0	2.0	1.0	0.3
Monroe County	NY	8.0	1.0	0.0	0.0
Nassau County	NY	NA	1.0	1.0	0.0
New York City*	NY	NA	2.0	1.0	0.1
Oklahoma County	OK	NA	2.0	1.0	0.3
Orange County	CA	NA	2.0	1.0	0.3
Philadelphia	PA	12.0	NA	NA	NA
San Bernardino County	CA	NA	3.0	NA	NA
San Diego	CA	NA	NA	NA	NA
San Francisco	CA	NA	1.0	0.5	0.3
Santa Clara County	CA	2.0	1.0	0.3	0.0
St. Louis**	MO	NA	4.0	1.0	1.0
Suffolk County	NY	NA	4.0	1.0	0.3
Ventura County	CA	NA	4.0	1.0	0.3

*New York City covers Kings County (Brooklyn) and New York County (Manhattan).

**St. Louis includes the City of St. Louis and the County of St. Louis.

NOTE: A fraction indicates that a meeting is to take place in a time period that exceeds 1 month. For example, an entry of 0.5 indicates that a meeting is to take place once every 2 months. Averages were computed based on the number of valid responses in each column.

TABLE 4. THE AGENCY'S ESTIMATED RATIO OF PROBATIONERS TO EACH PROBATION OFFICER, BY SUPERVISION LEVEL TO WHICH PROBATIONER IS ASSIGNED

		Intensive 22 TO 1	Maximum 43 TO 1	Medium 89 TO 1	Minimum 154 TO 1	Administrative 1050 TO 1
Agency Average						
Bexar County	TX	0	33	43	63	0
Dade County	FL	20	40	56	81	0
Dallas County	TX	30	39	45	262.5	0
Erie County	NY	0	30	40	30	0
Harris County	TX	0	50	60	120	0
Hennepin County	MN	0	23	28	43	0
Los Angeles County	CA	25	0	200	0	1000
Maricopa County	AZ	12	25	60	90	0
Nassau County	NY	0	25	30	30	0
New York City	NY	0	45	123	300	0
Philadelphia	PA	25	100	200	0	0
San Diego County	CA	0	60	130	300	1150
Suffolk County	NY	0	35	70	175	0
Ventura County	CA	0	50	160	350	1000

NOTE: Includes only those agencies where data on preferred and actual ratios were provided.

TABLE 5. PREFERRED AND ACTUAL RATIOS OF PROBATION OFFICERS TO THEIR SUPERVISORS

		Preferred Ratio	Actual Ratio
Agency Average		8:1	7:1
Baltimore City	MD	10:1	3:1
Baltimore County	MD	10:1	8:1
Bexar County	MD	NA	7:1
Cook County	IL	7:1	7:1
Dade County	FL	9:1	10:1
Dallas County	TX	10:1	5:1
Denver	CO	4:1	5:1
Erie County	NY	6:1	7:1
Franklin County	OH	NA	5:1
Harris County	TX	8:1	9:1
Hennepin County	MN	9:1	9:1
Honolulu	HI	5:1	6:1
Jefferson County	KY	10:1	14:1
King County	WA	NA	10:1
Los Angeles County	CA	10:1	7:1
Maricopa County	AZ	10:1	9:1
Milwaukee County	WI	10:1	7:1
Monroe County	NY	7:1	8:1
Nassau County	NY	5:1	5:1
New York City*	NY	6:1	5:1
Oklahoma County	OK	10:1	10:1
Orange County	CA	8:1	6:1
Philadelphia	PA	6:1	7:1
San Bernardino County	CA	9:1	9:1
San Diego County	CA	10:1	6:1
San Francisco	CA	NA	9:1
Santa Clara County	CA	10:1	6:1
St. Louis**	MO	7:1	6:1
Suffolk County	NY	10:1	8:1
Ventura County	CA	NA	6:1

*New York City covers Kings County (Brooklyn) and New York County (Manhattan).

**St. Louis includes the City of St. Louis and the County of St. Louis.

NOTE: Actual was computed by dividing number of probation officers by number of supervisors.

we can assume that there is variation in the preparation and actual on-the-job skills of probation officers from different departments. If this is true, it could be another factor which could partially account for differences in probationer outcomes across jurisdictions.

Variations in the Programs Provided to Probationers

The NACJP research contains information about the types of enhanced supervision provided.³³ Additional information is provided which describes the type and extensiveness of treatment services. The reports also contain commentary that describes the method of delivery of these treatment services.³⁴

The research showed extensive utilization of enhanced supervision programs. Restitution and intensive supervision were reported by over 90 percent of the agencies in the survey. Three-quarters of the agencies that provide house arrest used electronic monitoring. Residential programs were less prevalent (57 percent), and day treatment was provided by 30 percent of the agencies.

The most common types of treatment programs that were offered include: drug testing (97 percent); job placement (90 percent); drug treatment (87 percent); psycho-

logical counseling (87 percent); alcohol treatment (83 percent); family counseling (83 percent); educational services (70 percent); vocational training (60 percent); and other services (40 percent). Table 6 shows the method of delivery of some of the most common treatment programs.

It is difficult to assess the extent to which the quality, size, or effectiveness of these programs vary across probation agencies. The most direct evidence that there are differences comes from data collected by the U.S. Census Bureau and reported in the Census of Government Expenditure and Employment reports and by data collected in some states (e.g., in California, by the Bureau of Criminal Statistics, California Department of Justice).³⁵

These organizations collect expenditure information which shows great differences in the per capita expenditure for probation services across jurisdictions, even those within the same state.³⁶ The information also shows great differences in expenditure per probationer.³⁷ These are almost sure signs of differences in the quality and amount of service delivery.

Even without the financial information, however, it is clear there are many opportunities for disparities to appear in the amount and quality of these services. It can be assumed that there is an unevenness in these programs between and among probation agencies. Since these programs are designed to produce improved probationer outcomes, we can assume that the variation in the number and quality of programs provided may somehow contribute to variations in probationer outcomes across the probation departments under study.

Our summary of major sources of variation among probation departments now includes the following: 1) differences in felony sentencing practices create probation workloads of distinctly different size and average risk scores, which may or may not reflect the serious crime rate; 2) differences in the rate of admission and length of stay of the various types of probationers produce distinctly different probation caseloads; and 3) differences in the amount of money that is devoted to each probation agency will, in part, produce variations in the way probationers are supervised and in the amount, type, quality, appropriateness, and effectiveness of the services that are provided.

Variations in Probation Department Policies

A final source of variation among probation departments stems from the guiding philosophies that provide the basis for the development of policy in these departments. Two important indicators are explored here: 1) variations in the organizational placement and responsibilities assigned to the probation agency and 2) variations in disciplinary policy.

There are substantial variations in the organizational placement of the probation agency.³⁸ Of the 30

TABLE 6. METHODS OF DELIVERY FOR PROGRAMS

	Enhanced Supervision Programs*				
	Probation Staff Only	Staff & Contract	Brokered Service	Paid Contract	NA
Day Treatment	7%	7%	10%	7%	70%
Intensive Supervision	80%	13%	0%	0%	7%
House Arrest	73%	3%	0%	0%	23%
Residential Placement	0%	20%	30%	7%	43%
Restitution	86%	7%	3%	0%	3%
Community Service	54%	37%	3%	3%	3%

Treatment Services	Enhanced Treatment Programs*				
	Probation Staff Only	Staff & Contract	Brokered Service	Paid Contract	NA
Drug Treatment	0%	7%	70%	10%	13%
Drug Testing	26%	27%	23%	17%	7%
Alcohol Treatment	7%	17%	57%	3%	17%
Psych Counseling	13%	27%	50%	0%	10%
Family Counseling	10%	37%	33%	3%	17%
Educational Services	7%	20%	40%	3%	30%
Vocational Training	0%	17%	44%	0%	40%
Job Placement	34%	23%	30%	3%	10%
Other	13%	7%	10%	10%	60%

* N=30

probation agencies in the NACJP study two-thirds were administered by local governments; one-third by state governments. Fifty-seven percent were located within the executive branch, 40 percent in the judicial branch, and 3 percent in some other arrangement. There are great differences also in the responsibilities of probation officers and in the manner in which they are organized to discharge these responsibilities.³⁹

Some probation officers have caseloads which include felons as well as misdemeanants; others manage only felony cases. Some probation officers do presentence investigation reports and also have a caseload of persons who are receiving probation supervision; in other departments these functions are quite separate. Many departments supervise juveniles as well as adults; others have responsibility for only the adult caseload. Some probation departments administer correctional institutions and/or residential facilities or administer pretrial release programs.

Why should these different arrangements cause variation in felony probation supervision? Two examples should help illustrate this notion: First, there is an old adage in public administration that "form should follow function." The adage reminds us that these different arrangements are organizational forms which have evolved to meet different goals, objectives, priorities, and expectations for probation agencies. Secondly, there will be competition for the resources that are needed to carry out the differing responsibilities that have been listed here. Where agency goals differ, it will result in different levels of financial support for different functions in the different agencies. For example, we noted earlier that the NACJP studies show the average annual salary of entry level probation officers employed by local govern-

ments (\$23,100) exceeds that of state governments (\$18,700).⁴⁰

Other variations might make a difference. For example, competition for resources could affect the size of the caseload of the individual probation officers who manage the felony probation workload. It could affect the supervisor to probation officer ratio. It could affect the range and types of services that are made available to felony probationers.

Variations In Disciplinary Policies

Given the nature of probation, one key place to look for an expression of variation in guiding philosophy is in the disciplinary procedures in the agencies in the NACJP studies (see table 7).⁴¹ The reports describe differences in the operational definition of absconding and differential responses to that behavior.⁴² Similar differences are reported in the rate at which probationers satisfy behavioral and financial conditions of probation and the response of the probation agency when these are not satisfied.⁴³

The reports also describe differences in policies which lead to a violation of probation. These differences in policies would lead to different revocation and rearrest rates, even if the populations under supervision were identical across jurisdictions.

Some departments use disciplinary hearings extensively and terminate or modify probation on the basis of technical violations. These departments have scores which show a high proportion of probation terminations as a result of technical violations and a small proportion due to rearrest by law enforcement. Other agencies administer policies which do not automatically invoke a disciplinary hearing solely on the basis of an arrest.

TABLE 7. PERCENT OF PROBATIONERS WITH AT LEAST ONE DISCIPLINARY HEARING AND THE PERCENT DISTRIBUTION OF PROBATIONERS ACROSS THE PRINCIPAL PRECIPITATING FACTORS FOR THE FIRST DISCIPLINARY HEARING BY JURISDICTION, 1986

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

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

They await an adjudication of guilt before acting.

These differences in policy appear in the data (see table 7).⁴⁴ Agencies that had low percents on hearings precipitated by a rearrest tended to have high percents on hearings precipitated by a new conviction. For example, Suffolk County (NY) had the highest incidence of hearings precipitated by new convictions (58 percent), and the lowest for new arrests (2 percent). San Francisco had the highest percent of disciplinary hearings for new arrests (61 percent) but one of the lower rates for new convictions (9 percent).

Conclusions and Implications

We can now complete the summary of major sources of variation among probation departments by saying:

- differences in felony sentencing practices create probation workloads of distinctly different size and average risk scores. These differences may or may not be related to the serious crime rate.

- differences in the rate of admission and length of stay of the various types of probationers produce distinctly different probation caseloads;
- differences in the amount of money that is devoted to each probation agency will, in part, produce variations in the way probationers are supervised and the services that are provided; and
- variations in policy produce variations in the organizational placement, organizational responsibilities, internal probation agency organization, and disciplinary (and other practices) of the probation organization.

This summary statement gives rise to some important implications:

Variation serves to inhibit the development of a probation profession. For any field to become recognized as a "profession," it must gradually develop certain characteristics: a common language, standards, training and accreditation/licensing norms, a "tool kit" of procedures that are called for and which produce predicta-

ble, effective results in certain well defined situations, a code of ethics, and so forth.⁴⁵ How can a sense of "profession" develop among practitioners of such diverse enterprises, with diverse goals and expectations, differing responsibilities, diverse clients, and a primitive technology?

These conditions hinder the development of consensus about what "probation" is, what a probation officer does, and who a probationer is. It creates an ambiguous profession. The professional identity of many probation officers seems affected by this ambiguity and the uncertainty it produces.

Prior research about probation may be faulty. The NACJP research shows there is so much variation among probation agencies, the services they provide, and the probationer outcomes they produce, that it may be misleading—even pointless—to make comparisons among them. This seems to be true even when they operate within the same statutory framework in the same state (e.g., California).

This presents a "trap" for probation administrators. It is common practice to compare one probation agency with other probation agencies of similar size and circumstance. Where the diversity among probation agencies is not fully appreciated, this can lead to errors in interpretation which find their way into the development of probation policy. This can be a special problem when the comparison is being made by budget analysts or other officials who do not have extensive knowledge about probation, and who cannot be expected to fully understand the diversity of the probation profession.

This also presents a "trap" for the people who do research. The conclusions which derive from a good deal of research about probation also come from studies which compare the outcomes of probationers being supervised by different agencies.⁴⁶ This research has been influential in shaping contemporary probation policy and programs.

The NACJP studies raise the disturbing possibility that very substantial (and under-estimated) differences may have existed between and among the agencies that have been involved in this research and that these differences may have affected the validity and reliability of the research itself.

Unfortunately, these comparative research reports contain little examination of the fundamental ways in which these agencies differ and how these differences might affect the research results and conclusions. There is a prevailing assumption in these comparative reports that:

- probation agencies are pretty much the same;
- in the aggregate, the people on probation in these different agencies are pretty much the same; and
- the people and programs involved in supervising the probationers are pretty much the same.

The NACJP studies indicate nothing could be further

from the truth. There are truly important differences on all three of these dimensions.

Probation manager/administrators need to become more "system" oriented. It is not unusual for probation officials to turn inward in their examination of the probation service. After all, their day-to-day focus is on improving the operations of the probation agency. It is clear, however, that the singular focus on matters which are internal to the probation agency will be ineffective. It will quickly produce a probation administration with blinders on.

Probation can be much better understood within the context of the justice system as a whole. Most of the sources of variation, and therefore the forces which will most affect the probation agency, come from the external environment. Therefore, probation managers must learn more about the external environment, about how the external environment affects the probation agency, and about how they can influence and manage the external forces to benefit the probation agency and the services the agency provides to the community.

The material presented here calls for a new perspective—a reorientation of thinking by probation managers who remain insulated within their own organizational boundaries. They will need to do much more to manage the forces which are external to the probation agency. More energy and attention need to be directed "out," toward the system and less "in" on the agency itself.

The values/policies/decision-making connection is not well understood. Each source of variation in probation is shaped by values and a guiding philosophy which gives rise to justice system policies. A legal culture is characterized by its own unique values and norms. The notion that values drive the process is an important one. It has certain implications for understanding the decisions which are made about people and their cases at various stages of their passage through the justice system:

- In actual practice, these values coalesce into a guiding philosophy which is expressed through *justice policies*. These justice policies are promulgated in different ways by each branch and level of our federated system of government. For example, in the legislative branch, policy formulation takes the form of legislation and the adoption of budgets. In the executive branch of government, creation of Executive orders and rules and regulations gives expression to policy; and in the judicial branch of government, broad policies are expressed in the form of court rules.
- At the operational levels of government, these justice policies are carried out through the actions of criminal justice personnel; that is, through *decisions* they make about cases and people as they make their passage through the justice system.
- But, policies are often obscure. In the real world,

actual practices will sometimes conflict with official statements of policy. Also, a great deal of policy isn't clearly stated. Studies of the decision-making behavior of criminal justice personnel will reveal the policies which govern the passage of cases and people through the justice system. In other words, examining the decisions that are being made will provide empirical expressions of the policies which exist.

The variations found result from differences in justice policy, carried out by justice officials making decisions about cases and people as they pass through the justice system. The probation agency is an integral part of a local justice system. The workload of the probation agency, in fact, the workload of each justice agency, and the cost of administering the workload, is the consequence of decisions made by justice officials at as few as seven key justice system decision points, e.g., 1) arrest; 2) decision to detain in a pretrial facility; 3) decision to release a pretrial prisoner from a detention facility; 4) decision to file charges; 5) the adjudication; 6) the sentencing decision; 7) any modification of sentence.⁴⁷ The variation in the workload and the cost of processing cases in different counties, in the same state, operating under the same statutory framework, can more easily and clearly be accounted for by differences in the decision making of justice officials, than by the behavior of the criminal population.

Policy changes can control escalating justice costs and workload growth. Large caseloads are a major problem, not only in probation agencies, but to most justice agencies. It is clear that decisions being made by justice officials primarily determine that workload. It follows, therefore, that the size of the workload can be brought under control by changing policies.

The very diversity of variations that exist illustrates that a wide range of policy choices can be exercised. This may be difficult politically but, technically, it is easy to envision or model the changes in workload which will result when policies are changed.

This notion has cost and workload implications, not only for the probation agency, but for all justice system agencies, and should be good news to the governments which finance these agencies. *The probation agency, the courts that rely on probation, and the unit of government that provides funds for probation services, need not remain victimized by an overwhelming workload.*

This provides a clear rationale for examining justice agency decision making throughout the justice system, and for re-examining the justice policies which are played out in current justice decision making. The process is akin to shining a flashlight on the key decision points to more clearly illuminate them. This will produce a clearer understanding of the decision-making dynamics that are creating the workload of the justice system. This information would be fed back to the key officials

who operate the justice apparatus. It will give them a new system-wide context within which to evaluate their policies and to see more clearly how their policy choices affect other agencies. It will promote the evaluation and modification of existing policies and practices. This will provide the means by which the workload of the justice system can be brought under control; i.e., *managed*. The forum in which this activity can most logically take place will be a local interagency—and probably—intergovernmental justice system coordination group. Probation administrators will not have to do this alone; there are plenty of incentives for other agencies to also participate in the process.

The practical effect of implementing this notion would be to shift from the traditional singular focus on examining the behavior of the probationer to also examining the behavior of justice system decision makers. This will allow the analyst and the probation administrator to look through a new lens—a lens which will make the reasons for changes in the probation agency workload, and other variations in probation, much clearer. At the same time, it will also portray the dynamics of other parts of the justice system more clearly. Probation administrators can encourage other justice agency heads to join in and become partners in this new enterprise.

There is a need for new tools to facilitate comparisons between and among probation agencies. The variations in probation can best be explained, and understood, by examining the context in which each probation agency has been established, or been assigned, within the unique legal culture of the criminal justice system in each jurisdiction. If probation agencies are to be compared, they should be compared with these contexts in mind. This, of course, is far more difficult to actually accomplish because the individual justice systems are very complicated.

In order to make meaningful comparisons, analysts will need to develop and make use of classification tools which will increase confidence that true comparisons are being made. When applied to probation organizations, these tools would be analogous to the classification and research instruments used by researchers when they do research on probationer outcomes. But the subject of the classification system would be extended from solely examining probationers to also examining the characteristics of probation agencies, justice system decision making, and the justice systems in which they operate. The development of these tools should be encouraged because they will permit a new round of truly useful and informative comparisons to take place.

NOTES

1. See the bibliography which appears at the end of this article.
2. See the bibliography items by Cunniff; Cunniff and Bergsmann; and Cunniff and Shilton which appear at the end of this article.
3. Mark A. Cunniff, *A Sentencing Postscript: Felony Probationers Under Supervision in the Community*. Washington, DC: National Association of Criminal Justice Planners, April 1986; Mark A. Cunniff and Ilene R. Bergsmann, *Managing Felons in the Community*: