

**ADULT PROBATION
AND
COMMUNITY CORRECTIONS
IN TEXAS:
A MASTER PLAN
1977**

**VOLUME TWO:
SUMMARY AND RECOMMENDATIONS**

46392

NCJRS

APR 17 1978

ACQUISITIONS

The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of any country. A calm, dispassionate recognition of the rights of the accused, and even of the convicted criminal, against the State--a constant heart-searching by all charged with the duty of punishment--a desire and eagerness to rehabilitate in the world of industry those who have paid their due in the hard coinage of punishment: tireless efforts towards the discovery of curative and regenerative processes; unfailing faith that there is a treasure, if you can only find it, in the heart of every man. These are the symbols, which, in the treatment of crime and criminals, mark and measure the stored up strength of a nation, and are sign and proof of the living virtue within it.

- Sir Winston Churchill,
as Home Secretary to
the House of Commons

Adult Probation &
Community Corrections in Texas

NCJRS

APR 17 1978

ACQUISITION

Volume II

Summary & Recommendations

Texas Center for the Judiciary
Adult Probation Master Plan
State Bar of Texas
and
Criminal Justice Division of the Governor's Office

June 30, 1977

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Texas Center for the Judiciary

Adult Probation Master Plan

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FOREWORD

Volume II, "Summary and Recommendations," is a synthesis of the second and third volumes projected in the planning stages of the Adult Probation and Community Corrections Master Plan. It was suggested then that a third volume would detail implementation of the Plan's recommendations. However, with the passage of legislation by the 65th Texas Legislature to create a Texas Adult Probation Commission and to provide state money to locally-controlled departments (a move strongly supported throughout by the Master Plan), it was felt that implementation of recommendations would better be planned by those who will, in essence, be responsible for them. The third volume, then, has been dropped.

The improvement of correctional efforts and services must be a responsibility shared by parties at all levels of criminal justice administration. It is hoped that this document will provide a useful basis for their work, and for the work of the Texas Adult Probation Commission, toward improving community corrections as a whole in Texas.

Special acknowledgements should be made to the staff of the Texas Judicial Council, the Texas Council on Crime and Delinquency, the Statistical Analysis Center (Department of Public Safety), the Criminal Justice Division of the Governor's Office, and adult probation departments across the state for their help in the production of this Master Plan.

CHAPTER I
OVERVIEW AND SUMMARY
OF RECOMMENDATIONS

The Questions Addressed

This second and final volume of the Adult Probation and Community Corrections Master Plan will work toward answers for two questions. First, what legislative, administrative, judicial, and programmatic improvements will fortify and expand probation's usefulness to this State? Probation has shown itself capable of providing adequate controls and sanctions for the offender in the community at a fraction of the cost of incarceration. Relative to its proven capabilities elsewhere, in most Texas communities probation is a sentencing option under-used, under-staffed and under-funded. How can probation be made to serve best its objectives: reducing recidivism and preventing crimes?

Secondly, we must ask how this state could profit by a commitment to other corrections programs posing alternatives to detention and incarceration. Imaginative, forceful community programs designed to relieve tense conditions in county jails, or to motivate the convicted and the not-yet-convicted offender to help himself are both possible and practical--as several Texas communities have shown. But they require commitments of time, of creative, unified effort in reexamining old policies and experimenting with new ones, and of money--limited commodity, whether for local, for state, or for federal governments.

Many questions arise in contemplating how probation and other programs may best meet the objective of reducing crime

and recidivism. The purpose of this section of the Plan will be to define those questions and to provide answers that are not only theoretically sound but also eminently practicable.

Recommendations are directed at no single authority. Under new legislation, a statewide service center and administrative body will soon become responsible for distributing state monies to adult probation departments who meet established professional standards. The suggestions, recommendations and standards provided here may inform the Commission's decisions and serve as a basis for official standard setting. District judges will remain responsible for administering local systems and seeing that standards are met, and county commissioners will probably continue to carry partial or, in some areas, even full responsibility for financing these systems and standards. Responsibility and authority for pre-trial release and diversion activities are vested in no one body, although they are largely the initiative of district and county attorneys working in cooperation with all the judicial bodies. It is for these several audiences that the standards and recommendations are published, in hopes that the full support of all will be used to strengthen services.

Some recommendations entail more explicit plans for realizing their aims than others. This Plan is not in a position to dictate practices that would be appropriate to every county and/or judicial district. Options will be suggested. However, practitioners have long recognized that

the lack of statewide uniformity in some procedural areas has (1) created unnecessary hurdles and difficulties where cooperative effort was called for, and (2) retarded growth and improvement of corrections systems.

The Plan, then, will clarify responsibility for action, will promote more uniform practices where called for, and will provide a medium by which new ideas or proven policies are communicated.

Texas is not without certain standards for community corrections already. For probation, the Texas Adult Probation Manual constitutes a statement of principles to which local systems should aspire. The manual defines eight conditions necessary in order that probation should fulfill its purposes. They are reprinted here because they state principles supported by this Plan.¹

1. The probation authority should be impartial, non-political, professionally competent, and able to give the time necessary for full consideration of each case.
2. The probation authority should have complete and reliable information regarding the situation which will confront the probationer upon release to probation.
3. Through its public and private social service agencies, and in cooperation with the probation service, the community should accept the responsibility for improving home and neighborhood conditions in preparation for the offender's release back to society.
4. The probation program of treatment and training should be an integral part of a system of criminal justice.
5. The probated offender should be carefully supervised and promptly imprisoned or otherwise disciplined if demonstrated capacity and willingness to fulfill the obligations of a law-abiding citizen are not forthcoming.
6. The supervision of the probated offender should be exercised by qualified, trained persons who are experienced in the task of guiding social readjustment.

7. The county and state should provide adequate financial support for a probation system, including sufficient personnel selected and retained in office upon the basis of merit.
8. The public should recognize the necessity of giving the probationer a fair opportunity to earn an honest living and maintain self-respect in order that rehabilitation can be achieved, and the public can be adequately protected.

The Texas Criminal Justice Standards and Goals provided in 1975 a very general set of five standards for realizing these aims.² The five standards enumerated there are an abridgement of standards brought forward by the National Advisory Commission on Criminal Justice Standards and Goals (NAC).³ The Manual, the NAC report and the Texas Standards and Goals will be the basis, along with other professionally respected standards such as those of the ABA⁴ and the National Council on Crime and Delinquency,⁵ for further iteration and recommendation herein.

Probation is the court's system of corrections. The court locates responsibility for supervising the correcting, regenerative process in its agent, the probation department. The entire process comprises transactions between the courts, the offender, and the community; it entails preparation of court reports, supervision of probationers, and obtaining or providing services for probationers. A brief outline of the adult probation process and probation department responsibilities may be found on pages - .

It was stated earlier that the aim of good probation systems should be a reduction of crime and recidivism. We

were interested in testing this aim's validity in the eyes of probation officers, prosecutors and criminal defense attorneys. These three groups were asked about their probation system's orientation, about local constraints working against this goal and about steps that should be taken to improve their system. As further introduction to the problems discussed within this volume, their responses are reprinted on the following pages.

I. DO YOU CONSIDER YOUR PROBATION SYSTEM TO BE SPECIFICALLY ORIENTED TOWARD REDUCING CRIME/RECIDIVISM?

Probation Officers Q1, #106 81% (101) Yes 9% (11) No 10% (12) NA

Comments: "Orientation" is not the whole story. It is impossible to reduce anything without time to devote to the individual problems of clients. Probation is proven to be an effective mode of correcting offenders. However, conditions must be properly enforced, and sanctions invoked for serious violations.

* * * * *

Prosecuting Attorneys Q5, #50 59% (85) Yes 32% (46) No 10% (14) NA

Comments: Lack of a real probation program and/or extreme case loads render the department impotent to fulfill such an orientation. Money collections are more important to many departments.

* * * * *

Defense Attorneys Q6, #48 49% (53) Yes 43% (47) No 8% (9) NA

Although so oriented, a proverty of staff, training, money, and adequate supervision all legislate against success.

II. WHAT MAJOR CONSTRAINTS WORK AGAINST THE ACCOMPLISHMENT OF THAT GOAL?

Probation Officers Q1, #107

- The indifference of the public.
- Grossly insufficient money, manpower.
- Delays in the judicial processes.
- Failures of other social institutions (the schools, for example).
- Unemployment, and the state of the economy.
- The vagaries of politics.

* * * * *

Prosecuting Attorneys Q5, #51

Inadequate money and staffing, which are reflected in excessive case loads; absence of programs for meeting probationers' rehabilitative needs; failure of the public to understand probation; lack of cooperation among criminal justice agencies toward a unified goal.

* * * * *

Defense Attorneys Q6, #49

Also public apathy and lack of local opportunities or resources.

* * * * *

III. WHAT STEPS COULD BE TAKEN AT THE LOCAL LEVEL TO NEUTRALIZE THESE CONSTRAINTS? AT THE STATE LEVEL?

Probation
Officers
Q1, #108

- Educate public officials and the community at large.
- Provide more funds (state funds; newly elected officials and local funds).
- Provide more courts.
- Require the state to provide enforceable, more precise, uniform operational standards, as well as fiscal support (subsidy with local control over its allocation).
- District judges should exert the authority placed in their hands.
- Create more jobs for probationers.
- Begin with the younger children, the schools and the community itself. Provide better social (and economic) climate, better education, redirection of values.

* * * * *

Prosecuting
Attorneys
Q5, #52

On the local level, better supervision and enforcement, local coordination of efforts, and public relations are all possible. More and better manpower, training, and service programs are the keys; the state is viewed as better affording the needed financial assistance to realize these goals.

* * * * *

Defense
Attorneys
Q6, #50

Improve staff and coordinate community efforts through state funding and, possibly, state oversight.

These responses effectively summarize the questions most basic to effective probation services. The apparent simplicity of the suggestions belies the difficulty of planning realistic solutions.

Format

The survey data presented already in Volume I describing programming, administration and financing of corrections systems have been used to shape discussion and recommendations. Our analysis relies upon these data, knowledge of Texas's heritage, and research into the progress of other states in the area of community corrections. Discussion is organized around seven issues affecting the quality of probation programs. These are:

- (1) sentencing and court services;
- (2) case work, supervision and services to probationers;
- (3) manpower and training;
- (4) facilities and equipment;
- (5) coordination with other correctional and human services agencies, and public education; and
- (6) administrative and fiscal strategies for implementing recommended changes and improvements.

In each of these areas aims and issues are defined, needs set forth, professional standards documented, strengths and weaknesses identified, and action recommended. A bibliography of resource materials is provided where it would be useful for planners or practitioners interested in further study in an area.

Each chapter begins with a summary of the recommendations derived from the Master Plan's analysis of problem areas. Those recommendations are also reproduced on the following pages, organized by chapter.

SUMMARY OF RECOMMENDATIONS

CHAPTERS 2 - 7

SUMMARY OF RECOMMENDATIONS

CHAPTER TWO: SENTENCING AND COURT SERVICES

- II.1 Courts should consider taking greater advantage of the wide range of sentencing alternatives presently open to them. The judicial system should retain flexibility to impose sanctions of probation or other community alternatives.
- II.2 The sentence imposed in each case should call for the minimum amount of custody or confinement which is consistent with (1) the protection of the public, (2) the gravity of the offense, and (3) the rehabilitative needs of the defendant.
- II.3 All courts trying criminal cases should be supplied with the resources and supporting staff to permit a presentence investigation and written report of its results in every case.
- II.4 No sentence should be pronounced before review of a presentence investigation report. The bifurcated trial process is strongly recommended.
- II.5 Probation chiefs should work together with their district and county judges to arrive at a concise PSI report format which will supply timely, accurate, objective and relevant information. The format should provide at the least:
- (1) a complete description of the circumstances of the offense;
 - (2) prior criminal record of the defendant;
 - (3) employment and educational background, including military record and job skills;
 - (4) social history of the defendant (family relationships, marital status, interests, income and activities); and
 - (5) a summary of the most significant aspects of the report with specific recommendations as to sentencing if the sentencing court so requests; an outline of proposed corrective plan should defendant be placed on probation.
- II.6 A presentence investigation report should be sent with every incarcerated offender to the institution receiving him.
- II.7 A probation officer should be present in court whenever a defendant is sentenced to probation.
- II.8 Data collected through pre- and post-sentence investigations should be maintained by each department, and periodically analyzed and reviewed for trends in sentencing. Annual reports including this information should be presented to district and county judges for their examination.

- II.9 Statewide and in-service training should be designed to:
- (1) help departments plan data collection regarding sentencing and court practices;
 - (2) consider the value and use of probation prediction models; and
 - (3) help probation officers develop and improve their writing style.
- II.10 Departments should use the performance standards contained herein (pp. 67-68) to measure the effectiveness of their presentence functions.
- II.11 Sentencing should be based upon the circumstances of the particular offense, the needs of society, and the needs of the individual offender.
- II.12 Statewide sentencing institutes should be developed by the State Bar and the Center for the Judiciary for the purposes of improving sentencing procedures and decisions. Among their aims should be the development of criteria for use of alternatives to incarceration. These criteria should not be constrained by legislated guidelines or mandates.
- II.13 A practical study of felony and misdemeanor sentencing in Texas should be undertaken, with a view to recommendations for structuring judicial discretion through sentencing guidelines.
- II.14 If jury sentencing is to remain a practice, the Legislature should make possible judicial imposition of special probationary conditions strictly for constructive, rehabilitative purposes when a jury recommends probation.

SUMMARY OF RECOMMENDATIONS

CHAPTER THREE: CASEWORK, SUPERVISION & SERVICES

- III.1 Following the court's disposition, an initial supervision interview should be conducted with the probationer within 24 hours. Probation officers should make clear that the conditions of probation are understood by the probationer, and that he has received a copy of the court-signed conditions.
- III.2 A program plan for each probationer should be developed with his help immediately; it should be recorded, and then reviewed regularly.
- III.3 Each department should differentiate supervision according to the needs of each probationer.
- (A) Probationers should be classified into categories of maximum (or special), medium, and minimum supervision.
- (B) All new probationers should receive immediate intensive supervision contingent upon classification into one of the above categories.
- (C) The probationer who has demonstrated an ability to adjust to community living and to fulfill all conditions of probation, and/or who is under consideration for early discharge should receive minimum supervision.
- III.4 Each department should have a sufficient number of staff to develop, implement and supervise the programs planned for all felony and misdemeanor probationers. Misdemeanor probation, in particular, should be made more meaningful.
- III.5 Statewide in-service training should help probation officers develop and improve casework techniques.
- III.6 Each department should develop and use criteria for discharging probationers who fulfill conditions of their probation before completion of their sentence.
- III.7 A standard, streamlined compact for transfer of probationers from one jurisdiction in Texas to another should be developed by the Texas Adult Probation Commission with the advice of probation officers and judges.
- (A) Standards should include both courtesy supervision and transfer of jurisdiction.
- (B) All probation fees should be devoted to the department undertaking active supervision.

- III.8 Each department should designate a professional staff member liaison for transfer of supervision of probationers.
- III.9 A probation officer should immediately investigate all alleged violations of the conditions of probation, and review these allegations with his or her supervisor.
- III.10 Each department should institute informal administrative adjustments to resolve minor infractions or technical violations of probation.
- III.11 Departments should develop written procedures governing arrest of probationers, formal prosecution and court notification of an alleged violation, prehearing and violation hearing.
- III.12 Each department should develop and manage community services to promote the dignity, responsibility and well-being of all probationers. (See also Chapter 6)
- III.13 Probation officers should note special services provided to a client in case records, and evaluate the effectiveness of referrals.
- III.14 Current written records for each probation case should be maintained by supervising staff.
- III.15 Each department should develop written administrative policies and procedures governing case record management. Each case record should contain cumulative information on all significant actions, decisions and services rendered.
- III.16 Information contained in case records should remain confidential, and department policies should be outlined to insure this.

SUMMARY OF RECOMMENDATIONS

CHAPTER FOUR: MANPOWER, TRAINING & VOLUNTEERS

- IV.1 Each probation department is responsible for setting and observing its own fully considered standards, policies and procedures consonant with those prescribed here.
- IV.2 All departments should develop and maintain a manual setting forth policies and procedures for (1) recruiting, (2) screening, (3) training, (4) evaluating, (5) compensating and (6) advancing professional and support staff.
- (A) This manual should reflect actual current practice.
 - (B) It should include an organizational chart, job descriptions, and a flow chart of the criminal justice process.
 - (C) Job descriptions should be reviewed regularly, with attention to case load management strategies and specialization of duties.
 - (D) Monies should be made available for republication of the Texas Adult Probation Manual, which could act as a model for these operational manuals.
- IV.3 The State of Texas should define and upgrade minimum education and experience requirements for all professional adult probation positions. At the same time it should upgrade minimum salary levels for professional workers, to insure that they are competitive with entry level positions in other related fields.
- IV.4 Recruitment of qualified candidates for probation workers should be aggressive and thorough.
- (A) Probation departments should contact relevant degree programs (sociology, psychology, criminal justice, and social work) and career counseling and placement offices at those colleges and universities located within their jurisdiction. Together they should:
 - (1) develop students' understanding of the philosophy, objectives, methods and the importance of community corrections through sharing of information, lectures and special programs;
 - (2) encourage students to elect a career in this profession;
 - (3) organize internships, field placements and work-study programs; and
 - (4) recruit talented students for entry-level positions when openings occur.
 - (B) When openings occur departments should communicate with other departments and with local community programs in order to locate qualified applicants.

- IV.5 Only candidates meeting minimum education and experience requirements should be considered for appointment. Selection should be based on merit and fitness.
- IV.6 Each department should devise screening procedures that:
- (1) give full courtesy and consideration to all candidates;
 - (2) adequately test each candidate's poise, intelligence, common sense, and ability to communicate; and
 - (3) are consistently followed.
- IV.7 Probation officers should be released from the routine, clerical and record-keeping aspects of the job as far as possible through assignment of clerical and paraprofessional personnel.
- IV.8 The following principles of training and continued education should be adopted:
- (A) Formal statewide workshops by an independent group catering to the needs of the profession as a whole should provide: two weeks of orientation for all new probation officers; one week of skills development for all experienced probation workers; and one week of management training and consulting for all chiefs of probation annually. Content of these workshops should be determined by annual needs assessments.
- (B) All departments should provide leave time and reimbursement for employees attending professional meetings and other work-related activities.
- (C) Departments with three or more professional staff should set aside at least one half-day each month for in-service training. Departments with fewer than three professional staff should arrange with other such, or else with the larger departments, for local in-service training on a quarterly basis. Budgets should be structured and endorsed to finance travel and/or training materials.
- (D) All departments should plan on-site visits with one another in order to compare programs and management ideas.
- (E) All departments should budget money for professional journals and texts, to keep staff abreast of research findings and thinking in the criminal justice field.
- IV.9 Staff evaluations should be conducted at least annually by all departments. For one-man departments, evaluation is the responsibility of the district judge. Similarly, for probation chiefs, district judges undertake responsibility for evaluation.

- IV.10 Channels of communication between line and administrative staff should be open through both formal vehicles (grievance procedures and regular supervision) and informal rapport.
- IV.11 Recent legislation properly assigns fiscal responsibility for underwriting salaries and other probation system expenses to the State.
- IV.12 Salaries, benefits and opportunities for advancement should be competitive with other governmental jurisdictions, the private sector, and comparable occupations.
- IV.13 All probation department staff should be protected by provision of yearly cost of living increases. Merit raises should also be provided within the fiscal structure for probation departments.
- IV.14 All departments with three or more professional staff should develop plans for more effective use of volunteers to meet the ends of probation, undertaking an assessment of their needs and the community's resources. Each department is responsible for clearly articulated policies describing recruitment, screening, training and job performance. These should be included in the department's policy manual.
- IV.15 Departments desiring help with implementation of a volunteer program should contact the Texas Institute for Probation Training, or any of the four adult probation departments already using volunteers extensively, listed on page 225.

SUMMARY OF RECOMMENDATIONS

CHAPTER FIVE: FACILITIES & EQUIPMENT

- V.1 Every probation department in the state should be officed in a facility affording:
- (1) sufficient privacy to carry on professional work;
 - (2) ample space and furniture for professional and support staff to expedite all tasks;
 - (3) sufficient and well maintained equipment to facilitate work, namely: telephones, typewriters (preferably electric), a calculator, dictating equipment, access to copy machines(s), filing cabinets, access to computer terminals and facilities; and
 - (4) Continual maintenance to ensure a clean, neat, uncluttered appearance.
- V.2 Guidelines specifying adequate office space and equipment are provided herein for departments in rural, metropolitan, and major metropolitan areas.
- V.3 All departments' budgets should embrace expenses for travel necessary to:
- (1) supervise, counsel, and assist all probationers and defendants conditionally released;
 - (2) perform presentence investigations;
 - (3) appear in court whenever needed; and
 - (4) take part in training programs and professional meetings as recommended in Chapter 4.
- Expenses may be met through either a flat mileage rate (in line with that paid state employees), a monthly allowance based upon the distances that must normally be covered, or else a county-owned vehicle.
- V.4 All probation departments should begin to make plans for purchase of equipment and participation in the projected Comprehensive Data System, a computerized information system which will be coordinated among all segments of the criminal justice system.

SUMMARY OF RECOMMENDATIONS

CHAPTER SIX: COMMUNITY-BASED PROGRAMS, RESOURCES & PUBLIC EDUCATION

- VI.1 Departments are urged to extend their services and help to other criminal justice agencies and to other community programs.
- VI.2 Probation chiefs or their representatives should take part in local and regional criminal justice planning bodies.
- VI.3 Probation departments should take the initiative in planning and developing a wide range of community correctional alternatives for the benefit of courts and of law enforcement agencies. This range of alternatives should include:
- (A) Alternatives to pretrial detention. (These might include daytime release, supervised release, release in the custody of a willing third party, or cash deposit to the court.)
 - (B) Summons program in lieu of arrest and bail.
 - (C) Police and prosecutorial diversion.
 - (D) Half-way houses or community residential treatment centers.
 - (E) Alcohol and drug treatment centers.
- VI.4 Probation departments should designate staff to provide competent and timely information to the courts making decisions about release of defendants awaiting disposition. These staff should supervise and provide services to persons released on their own recognizance.
- VI.5 Courts and probation departments should explore channels by which to extend aid and counsel to the victims of crime.
- VI.6 Probation departments should take initiative in developing formal restitution programs, both residential and non-residential.
- VI.7 Each probation department should canvass the various resources for jobs, services, and volunteers in their communities.
- (A) A current list of all these resources should be maintained.
 - (B) Department needs should be evaluated annually.

- VI.8 Staff should maintain continuous liaison with resource agencies. Referral procedures should be clearly defined and followed.
- VI.9 Departments should be able to budget for the purchase of needed services. This should not be at the expense of other probation department functions.
- VI.10 Departments should define procedures for recording and evaluating their use of community services.
- VI.11 Each department should develop and distribute information describing its purposes and functions.
- VI.12 Departments should define staff responsibility for public education, and should outline a policy for relations with the communication media.
- (A) Each probation officer should undertake to educate the public as part of daily duties, and all professional staff should receive training in this area.
- (B) Departments should outline a plan annually for improving public relations.
- (C) Departments should maintain effective communication with:
- Public and private employers
 - Social service agencies
 - Schools
 - Civic groups
 - Lawyers and judges
 - Labor unions
 - Law enforcement agencies
 - Prosecutors
- VI.13 Probation chiefs should establish and maintain liaison with colleges, universities and other agencies to facilitate research and to share information about the administration of criminal justice. (See also Recommendation IV.4(A).)

SUMMARY OF RECOMMENDATIONS

CHAPTER SEVEN: ADMINISTRATION & FINANCING

- VII.1 Responsibility for the administration of probation should remain in the hands of district judges. Departments should continue to determine their own interests, programs and practices, so long as they are consistent with recommended professional standards.
- VII.2 The major responsibility for financing adult probation should be made the State's, through direct aid to local departments in order to meet the professional standards defined by both this Plan and the responsible body administering state aid, now the Texas Adult Probation Commission.
- VII.3 A statewide service center should be maintained to help local departments develop and improve their programs and to disburse state monies for their support. The center's functions should be:
- (1) to disseminate information to local departments about: legislative changes, case law, training opportunities, special programs, job openings, and pertinent research findings;
 - (2) to provide technical assistance to departments in case load management, record keeping, program development and evaluation, in-service training, grant-writing, program administration, and community relations;
 - (3) to help coordinate statewide activities bearing on probation and the development of community-based corrections;
 - (4) to plan, gather, analyze and publish data describing probation services, activities, and trends;
 - (5) to conduct research and continue planning begun with this project;
 - (6) to help departments apply for and obtain state and federal funds;
 - (7) to monitor adult probation services to see that state standards are being met.
- VII.4 Each department should develop and maintain an administrative manual to define its general purpose and its functional objectives; and should incorporate all written policies and procedures as they are distributed to staff.
- (A) These policies and procedures should be reviewed and revised at least annually.
- (B) Probation officers should maintain a personal notebook of current policies and procedures as revised.
- (See also Recommendation IV.2)

- VII.5 Staff should be involved in the development and review of both state standards and local policies and procedures.
- VII.6 Department administrators should clearly define authority and responsibility at all levels of staff.
- VII.7 Staff meetings should be scheduled regularly, and organized so as to be brief and to the point.
- VII.8 Operation of all probation departments should be free from improper political influence.
- VII.9 The Texas Adult Probation Commission should promptly inform each department of the amount of aid for which it qualifies in order to facilitate local budget planning.
- VII.10 All state level agencies channeling federal and/or state monies to local communities for court services and community corrections should establish a body to:
- (1) coordinate plans and procedures for the granting and administration of these monies; and
 - (2) promote consistent standards, grant request procedures, and accounting requirements that will facilitate the development of programs and minimize bureaucratic inconsistencies.
- VII.11 Department administrators should base annual budgets upon a review of past performance, of trends in current practices and of new program requirements. Adequate data should be gathered, maintained and analyzed to make this possible.
- VII.12 Departments experimenting with model projects outside the range of annual budgets should explore special federal, state and private sources.
- VII.13 Expenditure of budgeted funds should be monitored and reviewed regularly.
- VII.14 Each department should define its own information needs, should designate in writing responsibility for compiling and reporting data, and should collaborate with other local criminal justice agencies in gathering and exchanging information.
- Annual reports including descriptive data should be presented to district and county judges exercising criminal jurisdiction for their consideration.
- VII.15 Standardized data should be compiled on a monthly basis by each adult probation department in the state, and should be reported to a state body responsible for analyzing and publishing it.
- VII.16 Departments should plan to participate in the Comprehensive Data System when it becomes operational.

- VII.17 There should be continued collaboration on a state level between probation authorities and other criminal justice administrators to improve statewide data collection systems.
- VII.18 Program planning at both state and local levels should take into account information regarding:
- (1) broad cultural, social and political change;
 - (2) changes in relationships between probation departments, other government and private agencies, and the community; and
 - (3) departments' objectives, policies, structures and achievements.
- VII.19 Each department should designate and maintain written procedures and responsibility for the collection, safeguard and disbursement of monies, as approved by the county auditor. These procedures should be included in the department's administrative manual.
- VII.20 Collection and bookkeeping procedures should comply with acceptable accounting practices.
- VII.21 Report of all financial collections and disbursements should be submitted to district judges and other appropriate authorities as required.
- VII.22 Department administrators should check current records periodically to see that adequate data on probation are collected and recorded as outlined in the department manual.
- VII.23 Each department should insure its own effectiveness and performance using the recommendations outlined in this Plan as measures for evaluation. All professional staff should take part in program analysis and review at least annually.

EXHIBIT I-A

PROBATION PROCESS & DEPARTMENT RESPONSIBILITIES

Pre-Trial Stage

- A. Supervision of Release-on-Recognizance defendants
- B. Pre-trial investigations (not recommended, unless by consent of defendant)

Trial and Sentencing Stage

- A. Presentence investigation and report to the court
 - (1) referral by judge; setting of interview appointment
 - (2) initial interview; gathering of basic data
 - (3) records check--police, pertinent welfare and social agencies, medical and psychiatric, school records, employment
 - (4) verification of facts
 - (5) preparation of report; formulation of recommendations
 - (6) administrative approval of report
 - (7) submission to court, which may disclose contents to counsel for state and for defendant
- B. Testimony at sentencing hearing, if necessary
- C. Administration of necessary forms to probationer

Post-Sentence/Correction Stage

- A. Post-sentence investigation, where no pre-sentence was performed (same process as that for PSI) or where further diagnosis needed; formulation of program plan
- B. Regular collection of court costs, attorney's costs, restitution, fines and/or probation fees
- C. Supervision through regular reporting (the same process, services and supervision apply to deferred adjudication or extra-judicial probation)
 - (1) maximum (once a week, at the least)
 - (2) medium (once every month)
 - (3) minimum (report by mail)
- D. Counselling
 - (1) individual
 - (2) group
 - (3) specialized (alcohol, job)
 - (4) brokerage of services
- E. Referral to services
 - (1) contact, information sharing with agency
 - (2) coordination of plans with offender and agency
 - (3) drawing up of performance contract
- F. Revision of probation conditions (with court consent)
- G. Determination of violation
 - (1) investigation
 - (2) administrative proceeding (hearing/staffing of case)
 - (3) filing of violation report with prosecution
 - (4) administrative follow-up on arrest and detention or release; appointment of attorney

I-A

- (5) revocation hearing
- (6) if execution of sentence, preparation of case records for institution; if denial of motion, reprocessing of program plan and conditions of probation

H. Early release

- (1) administrative hearing and staffing
- (2) filing of motion for new trial
- (3) bench hearing
- (4) dismissal of conviction
- (5) expungement of records

I. Regular release

- (1) filing of motion for new trial
- (2) bench hearing
- (3) dismissal of conviction
- (4) expungement of records

FOOTNOTES TO CHAPTER ONE

1. Texas Adult Probation Manual Task Force, Texas Adult Probation Manual (Texas Center for the Judiciary, Austin, 1975), p. I-3.
2. Governor's Executive Committee on Criminal Justice Standards and Goals, Texas Criminal Justice Standards and Goals, Austin, TX., 1975.
3. National Advisory Commission on Criminal Justice Standards and Goals, Report on Corrections (Washington, D.C., 1973).
4. American Bar Association, Standards Relating to Probation, Tentative Draft, (NY 1970). Also, ABA Standards Relating to Sentencing Alternatives and Procedures, Approved Draft (NY, 1968).
5. Committee on Standards and Goals for Adult Probation, Professional Council of the National Council on Crime and Delinquency, Standards and Guides for Adult Probation, (NY, 1962).

CHAPTER 2 SENTENCING AND COURT SERVICES

- (1) USE OF COMMUNITY CORRECTIONS
AS SANCTIONS IN SENTENCING
- (2) PRESENTENCE INVESTIGATIONS
AND INFORMED SENTENCING
- (3) EQUITY IN SENTENCING: GUIDE-
LINES AND CRITERIA

SUMMARY OF RECOMMENDATIONS

- II.1 Courts should consider taking greater advantage of the wide range of sentencing alternatives presently open to them. The judicial system should retain flexibility to impose sanctions of probation or other community alternatives.
- II.2 The sentence imposed in each case should call for the minimum amount of custody or confinement which is consistent with (1) the protection of the public, (2) the gravity of the offense, and (3) the rehabilitative needs of the defendant.
- II.3 All courts trying criminal cases should be supplied with the resources and supporting staff to permit a presentence investigation and written report of its results in every case.
- II.4 No sentence should be pronounced before review of a presentence investigation report. The bifurcated trial process is strongly recommended.
- II.5 Probation chiefs should work together with their district and county judges to arrive at a concise PSI report format which will supply timely, accurate, objective and relevant information. The format should provide at the least:
- (1) a complete description of the circumstances of the offense;
 - (2) prior criminal record of the defendant;
 - (3) employment and educational background, including military record and job skills;
 - (4) social history of the defendant (family relationships, marital status, interests, income and activities); and
 - (5) a summary of the most significant aspects of the report with specific recommendations as to sentencing if the sentencing court so requests; an outline of proposed corrective plan should defendant be placed on probation.
- II.6 A presentence investigation report should be sent with every incarcerated offender to the institution receiving him.
- II.7 A probation officer should be present in court whenever a defendant is sentenced to probation.
- II.8 Data collected through pre- and post-sentence investigations should be maintained by each department, and periodically analyzed and reviewed for trends in sentencing. Annual reports including this information should be presented to district and county judges for their examination.

- II.9 Statewide and in-service training should be designed to:
- (1) help departments plan data collection regarding sentencing and court practices;
 - (2) consider the value and use of probation prediction models; and
 - (3) help probation officers develop and improve their writing style.
- II.10 Departments should use the performance standards contained herein (pp. 67-68) to measure the effectiveness of their presentence functions.
- II.11 Sentencing should be based upon the circumstances of the particular offense, the needs of society, and the needs of the individual offender.
- II.12 Statewide sentencing institutes should be developed by the State Bar and the Center for the Judiciary for the purposes of improving sentencing procedures and decisions. Among their aims should be the development of criteria for use of alternatives to incarceration. These criteria should not be constrained by legislated guidelines or mandates.
- II.13 A practical study of felony and misdemeanor sentencing in Texas should be undertaken, with a view to recommendations for structuring judicial discretion through sentencing guidelines.
- II.14 If jury sentencing is to remain a practice, the Legislature should make possible judicial imposition of special probationary conditions strictly for constructive, rehabilitative purposes when a jury recommends probation.

Introduction

The question of how best to reduce recidivism, and perhaps even crime through the most excellent system of probation possible is intimately tied to judicial discretion in applying the probation disposition appropriately. Rational, discreet sentencing is therefore the first key to good probation programs.

The following statement by the American Bar Association's Committee on Standards Relating to Sentencing Alternatives and Procedures assesses the importance of this issue:

The consequences of a sentence are of the highest order. If too short or of the wrong type, it can deprive the law of its effectiveness and result in the premature release of a dangerous criminal. If too severe or improperly conceived, it can reinforce the criminal tendencies of the defendant and lead to a new offense by one who otherwise might not have offended so seriously again.

The decision which is presented at sentencing is also enormously complex. It properly is concerned, and often predominately, with the future which can be predicted for the particular offender. But any single-valued approach to sentencing is misdirected. A sentence which is not in some fashion limited in accordance with the particular offense can lead to a system of incomparable brutality. ~~Per contra, a sentence or pattern of sentences which fails~~ to take due account of the gravity of the offense can seriously undermine respect for law.¹

Sentencing determines which correctional agencies will receive an individual as well as the conditions under which these agencies will receive him. Hence:

Sentencing is related to community security insofar as it affects the ability of correctional agencies to change the behavior of convicted offenders.²

For many years, study and thought have been given to the problems of (1) bringing more uniformity and consistency to sentencing practices, and (2) the impact sentencing practices have upon correctional administration and efforts. The nation's system of sentencing has been partially blamed for problems in prisons and for the doubtful or negligible impact of the courts and corrections upon rising crime rates in many communities. State legislatures and judicial bodies have heard many and disparate calls for study and change.

The rapid expansion of corrections systems in Texas requires attention to our entire approach to sentencing, its rationale, and the ways in which it works for the purpose of correcting offenders. The discussion which follows treats with four related questions.

- (1) For whom is the probation disposition appropriate?
And, since probation functions as a kind of conditional clemency from imprisonment, for whom is prison necessary?
- (2) How may the best disposition of a case be determined?
- (3) What are the roles of court officials, including probation officers, in making this determination?
- (4) Is the probation disposition being used appropriately now in Texas?

Aims

The aims of criminal sentencing are traditionally identified as correction of the convicted defendant, and deterrence of further crime. These purposes are met both through sanction or punishment and through rehabilitative measures. The ideals of justice for both society and the individual are served by: (1) a fair sentencing structure; (2) expeditious sentencing procedures; (3) intelligent and informed sentencing criteria; and (4) adequate resources to make all sanctions and rehabilitative efforts meaningful.

Issues

Correction begins at the sentencing stage of the criminal justice process. The gravity, dignity, and fairness represented by pronouncement of sentence may have much to do with the convicted defendant's attitude toward the sentence imposed. Probation systems affect sentencing decisions, and are in turn necessarily affected by them. It is vital that the probation sanction be used appropriately so as to afford community protection and at the same time take advantage of the opportunity to turn offenders around. Otherwise the probation system's credibility is undermined and destroyed in the community's eyes.

To this end, presentence investigations undertaken by the probation department should be used to provide facts about the convicted defendant that will inform the judge's decision.

Three problems affecting sentencing's impact upon community corrections in Texas have been identified in study for this master plan. First, probation services are underused by many courts, as they are able to inform the court's sentencing decision through presentence background reports, and secondly as they are able to supervise and contain the non-violent and non-professional criminal. As a rule, sentencing alternatives to incarceration are not employed to their full extent. Thirdly, disparities among sentences for categories of offenders and offenses result from an absence of clear sentencing criteria as well as a confusion of correctional objectives, and impair correctional agencies' efforts to work with individuals.

(1)

Use of Community Corrections
as Sanctions in Sentencing

RECOMMENDATIONS

- II.1 Courts should consider taking greater advantage of the wide range of sentencing alternatives presently open to them. The judicial system should retain flexibility to impose sanctions of probation or other community alternatives.
- II.2 The sentence imposed in each case should call for the minimum amount of custody or confinement which is consistent with (1) the protection of the public, (2) the gravity of the offense, and (3) the rehabilitative needs of the defendant.

It was reported in Volume I of this Plan that relative to other states, Texas's use of the probation sanction is conservative. (See pp. 130-133.) During the year 1976 a sentence was probated 54% of the time by district courts around the state. By comparison, a sentence was executed 42% of the time. The remaining four percent of felony convictions presumably resulted in a fine and release. (TJC Annual Report for 1976.) This 54% represents a growth in the application of probation as a sentence over the six years from 1971 to 1976 of only 7%. (In 1971, 47% of the felony sentences recorded by the TJC were probated.)

While some jurisdictions tend to take full advantage of probation, others do not. This too, is demonstrated by the TJC data, which show enormous disparities in sentencing practices around the state. Some of the jurisdictions studied have probated as many as seventy-five percent of all sentences for felony convictions; others have used it for as few as thirty percent of their cases. Many of the major metropolitan areas would seem to probate and to execute sentences at nearly the same rate, although in one of them (Travis County) over twice as many sentences in 1976 were probated as were executed. (See Volume I, Appendix L, pp. 399-420.)

The Master Plan project examined information describing sentencing, revocation, and reconviction trends over a period of five years. Data were provided by a sample of 24 probation departments and by Texas Judicial Council Annual Statistics; they are reproduced on pages 87 to 89, as Table II-A.

It was hoped that data would indicate whether a higher rate of probations granted to felons leads to a higher rate of recidivism. No such correlation was apparent. Recidivism was defined for this purpose to be either revocation of probation sentence or reconviction. Interestingly, most departments estimated that some 3% of their case load are reconvicted without probation being revoked. Actual revocation rates were found to vary considerably from one jurisdiction to another, and from one year to another. (Some of the many variables affecting revocation activities--and therefore statistical recidivism--are quality of probation casework; attitudes of judge, probation officer and prosecutor; and original sentencing policies and proper use of presentence investigation reports to guide sentencing decisions.)

These data are not, of course, conclusive but they are indicative of two things. First, an increased use of probation in some communities has not inevitably posed a corresponding increase in risk to those communities (since risk would be evidenced by high rates of reconviction and/or revocation). Secondly, consistent statewide information needs to be gathered in order to more reliably describe the effect of sentencing trends and the success of community programs involving probation.

That a policy of increased use of community corrections programs would benefit the state is given more substance by the direct and indirect savings realized

where effective probation systems operate. Cost benefits are realized from reducing the number of prisoners confined; from reductions in welfare roles; from taxed earnings and spending when jobs can be found; and finally, from better salvage of our human resources.

The size of Texas's inmate population has grown to be the second largest of any state in the country, more than doubling from 8,600 in 1955 to 17,700 in 1975. The incarceration rate has risen over the past five years far beyond growth in overall population, to also become the second highest in the country.⁴ From 1970-1975 the inmate population increased 32%, compared to a state population growth of 8%, while the rate of incarcerated sentences per 100,000 population intensified from 128 in 1970 to 154 in 1975.⁵ As of 1/1/1977, the Texas Department of Corrections held 20,700, and by 1979 this is expected to become 25,565.⁶ Cost per day per inmate, computed on the basis of appropriated money, is approximately \$6.00.⁷ This does not account for the enormous one-time cost of building a prison, or for money coming through TDC's revolving funds.

By comparison, the cost of maintaining a probationer in the community around the state in 1976 was \$0.32 per day. Only forty percent of this amount was subsidized by the local tax-payer; the remainder was picked up by federal grants (20%) and probation fees (40%). (See Volume I of this report, pp. 200-202.) This figure, derived from the Master Plan survey of 125 probation

departments, is far too low to adequately underwrite effective community services. The projected cost for an adequate system of probation statewide is \$.97 per day for each probationer.⁸ Still, the fiscal advantages of employing this sanction are obvious.

While the relative cost of probation systems is a compelling reason for their further development, judicial decision-making must be based on something more than economic considerations. Two such considerations are these: (1) effective supervision of offenders minimizes risk to the community; and (2) better corrective opportunities in the community help selected offenders develop responsibility for their actions.

The success of other states of comparable population and crime rates with employing community alternatives confirms the first assertion. As was already stated, Texas's TDC population is the second largest of any state in the nation. According to the last census, Texas is also the fourth largest state by population (11,196,730 in 1970). The two states closest in population size, are Pennsylvania (11,793,909) and Illinois (11,113,976). The prison populations of both, however, according to a census taken by Corrections Magazine for 1/1/1977, are less than half the size of Texas's: Pennsylvania's inmate population was 7,584 on that date, and Illinois held 10,002 in state prisons.⁹ From 1955 to 1975, during which time Texas's inmate population more than doubled, Pennsylvania actually

realized a decrease of 10%.¹⁰ According to the most recently published U.S. census of state correctional facilities, made for 12/31/1975, Texas's incarceration rate per 100,000 population was 154, the second highest in the nation, compared to Pennsylvania's 60, and Illinois's 73 per 100,000.¹¹

Moreover, the deterrent effect of high incarceration rates is not borne out by trends in the FBI's Uniform Crime Reports. In 1975, for instance (the last year for which information is available), the Total Crime Index for Texas was the highest of the three states: for Texas it was 5,407 per 100,000 population; for Pennsylvania--3,349; and for Illinois--5,382.¹² The greater use of community corrections in both these states, then, would not seem to be reflected in a correspondingly greater incidence of crime.

The second consideration supporting greater use of probation consists in its superior opportunities for the offender to make decisions, control his actions, and assume responsibility for those actions. The rehabilitative or regenerative process consists of recognition and effective use of these opportunities. Community-based corrections is properly a system of approaches, within a concerned community, designed to meet the correctable identified needs of the offender so he might be in more accord with his society. With properly administered programs this approach can be used without risking society's welfare.

The Texas Adult Probation Manual lists the following factors in probation's favor:

- (1) The offender can remain in the community to lead a normal life and learn to assume the responsibilities of a law-abiding member of society. Since ultimate adjustment must be in the community and not in the institution, the probationer is in the best situation in which to develop the qualities needed for this adjustment.
- (2) The probationer can support himself or herself, discharge family obligations, and make restitution or reparation to those who have suffered from the crime.
- (3) The offender does not experience the kind of isolation from normal social contacts and responsibilities which come with incarceration. Commitment to a penal institution often leaves the person embittered, stigmatized as a convict, further schooled in crime through association with other prisoners, and unfit to take up life in society.
- (4) The offender does not face the task of successfully adjusting to the community alone, but is under the supervision of a probation officer who guides and assists the probationer, acts as counselor, confidant, and friend, as well as a representative of the law.¹³

Arguments favoring probation are often framed as arguments against imprisonment. Indeed probation is conceded to have evolved in reaction against prisons' harsh punitive approach and their failure to live up to idealistic rehabilitative objectives. The latter objectives are for the most part inconsistent with the very structure of correctional institutions, as James V. Bennett observed in 1948:

On the one hand, prisons are expected to punish; on the other, they are supposed to reform. They are expected to discipline rigorously at the same time that they teach self-reliance. They are built to be operated like vast impersonal machines, yet they are expected to fix men to live normal community lives. They operate in accordance with a fixed autocratic routine, yet they are expected

to develop individual initiative. All too frequently restrictive laws force prisoners into idleness despite the fact that one of their primary objectives is to teach men how to earn an honest living. They refuse a prisoner a voice in self-government, but they expect him to become a thinking citizen in a democratic society. To some, prisons are nothing but "country clubs" catering to the whims and fancies of the inmates. To others, the prison atmosphere seems charged only with bitterness, rancor and an all-pervading sense of defeat. And so the whole paradoxical scheme continues, because our ideas and views regarding the function of correctional institutions in our society are confused, fuzzy, and nebulous.¹⁴

By confining dangerous offenders, and by restricting basic freedoms, prisons effectively protect society and deter lawlessness. They provide a temporary respite for society from further criminal mischief, and provide tangible evidence that the consequences of crime are serious. A strong movement is afoot today to reconsider and more appropriately define the objectives that have in the past been articulated for prisons.¹⁵ Both those advocating the "right to punishment" and those insisting upon the "right to rehabilitation" urge this same process of redefinition of objectives. The newer rhetoric reasserts the convicted criminal's choice in committing a crime, which implies the acceptance of its moral and legal consequences.

The probation sanction and process is consonant with the philosophy behind the rhetoric of punishment. It should not be looked upon as a second chance, by either the public or the judiciary, but should be made meaningful in its own right through a program of careful supervision and controls, of responsive case work, and of diligent community development to create those conditions which

promote the welfare and best interests of individuals. Only those offenders who, by study, are determined to pose a high risk to the community or who, after being given sanction for correcting themselves in the community have proven an inability to adjust, should be incarcerated.

Recent writing and standards for sentencing have called for a wide range of sentencing alternatives available to all jurisdictions. The ABA Standards Relating to Sentencing Alternatives and Procedures follows the thinking of the American Law Institute's Model Penal Code (1962) and of the Advisory Council of Judges of the National Council on Crime and Delinquency's Model Sentencing Act (1963), in recommending that:

The sentencing court should be provided in all cases with a wide range of alternatives, with gradations of supervisory, supportive and custodial facilities at its disposal so as to permit a sentence appropriate for each individual case. (Standard 2.1 (b): Statutory Structure.)

The Texas Legislature has gone far in meeting its mandate by defining the following range of penal sanctions by law:

- (1) Confinement with possibility of parole (Title 3, Chapter 12, Texas Penal Code and Article 42.12, CCP)
- (2) Partial confinement with work release (H.B. 1322 and H.B. 1271, Acts 1977, 65th Legislature, amending Article 42.03, Section 5, CCP and Article 1911a, VTCS)
- (3) Shock probation (S.B. 695, Acts 1977, 65th Legislature, Articles 42.12, Section 3e and 42.13, Section 3a)
- (4) Probation with short-term detention condition (Article 42.12, Section 6b, CCP)

- (5) Probation with conventional and/or special conditions (Article 42.12 Sections 3a & 6, CCP; amended by S.B. 61 and S.B. 695, Acts 1977, 65th Legislature)
- (6) Deferred adjudication probation (Article 42.12, Section 3d (a), (b), & (c), CCP, and S.B. 152, Acts 1977, 65th Legislature)

Shock probation, the newest of these alternatives, has been recently enacted into law. District judges now retain concurrent jurisdiction with the Department of Corrections for 120 days after execution of a sentence, and county judges retain concurrent jurisdiction over misdemeanants for 90 days. After the felon has served 60 days, or the misdemeanant 10 days, upon his written motion, or motion of the judge, he may then be returned to the court, further execution of sentence suspended, and probation invoked. Clearly the legislative mandate for a wide range of sentencing alternatives is being met.

At the same time, however, the 65th Legislature has exempted specific offenses involving the use or threat of violence from possibility of the probation sanction. (S.B. 152, Acts 65th Legislature, 1977.) This signals a return in the direction of the laws of 1913 (for Suspended Sentence) and of 1947 and 1957 (for Adult Probation and Parole). The exempted offenses are: murder, aggravated kidnapping, rape and aggravated rape, sexual abuse and aggravated sexual abuse, robbery and aggravated robbery. Furthermore, probation is no longer permitted if an offense is shown to have involved either the use or exhibit of a firearm. Finally, this piece of legislation amends

proceedings against a felon convicted of an offense in which a "deadly weapon" is used or exhibited. Probation cannot be imposed by either judge or jury after an adjudication of guilt, but if the defendant pleads guilty, and elects that a jury assess punishment, then the jury (and only the jury) may defer further proceedings and place the defendant on probation for no more than ten years.

Several effects of this legislation on the handling of cases through the criminal justice system may be anticipated. First prosecutors who are persuaded that probation is an appropriate sanction in a given case are likely to press for indictment and conviction for lesser included offenses. (See ABA, Standards for Sentencing, pp. 55-6.) Secondly, more defendants for cases involving a deadly weapon (not a firearm) are likely to plead guilty in order to elect jury sentencing, since only a jury may now levy a sanction less than incarceration. More juries will have to be called. The impact of this procedural change upon prosecutorial decision-making and plea bargaining needs to be studied. Third, a slightly higher percentage of convicted felons will now face a prison sentence. An estimated 3% of the felons now on probation were convicted of an offense targeted in this statute. Hence, less than 700 felons convicted in 1976 for these violent crimes were probated. Some portion of this group will now go instead to the Texas Department of Corrections.

Community correction is not appropriate for the violent or habitual criminal. This legislation may assist

in keeping the wrong sorts of offenders off probation case loads. For felons committing property crimes and for youthful offenders, however, several of the options open to the courts involving service of a sentence in the community are presently underused. As instance of this, district judges surveyed for this Master Plan were asked whether they: "use the deferred proceedings as set out in Section 3d (a), Article 42.12, CCP?" Twenty-two percent (33) replied "Never," and only nineteen percent (28) use these proceedings in over five percent of the cases they decide. (See Volume I: Q2, #40, p. 279.) District judges were also queried on their use of the detention condition in addition to other probation conditions, as set out in Section 6b (a), Article 42.12, CCP. Thirty-five percent (54) stated they never do so, while only twenty judges (14%) estimate they use this condition for more than ten percent of their cases. (Same: Q2, #41.)

At the root of sentencing practices with respect to probation would seem to be three conditions: (1) the public's attitude toward community "treatment"; (2) judicial attitudes towards sentencing and corrections; and (3) under-development of effective community correctional systems. Judges as well as district and county attorneys necessarily represent the interests of the public in their offices. The community's attitude towards probation and community correction certainly affects legislative directions, and may well influence willingness

locally to recommend or grant probation and to lend community programs their full support. Both judges and prosecutors should take the leadership in changing the community's attitude. The means of bringing about better and fuller use of community alternatives are fourfold: (1) public education, (2) judicial training, (3) provision and support for better programs, and (4) more presentence investigation services. All must work together. Public education and fiscal support for better programs are taken up in later chapters. The last of these--more judicial reliance on presentence investigation reports--is the second step toward more rational and informed sentencing.

Presentence Investigations and Informed Sentencing

RECOMMENDATIONS

- II.3. All courts trying criminal cases should be supplied with the resources and supporting staff to permit a presentence investigation and written report of its results in every case.
- II.4. No sentence should be pronounced before review of a presentence investigation report. The bifurcated trial process is strongly recommended.
- II.5. Probation chiefs should work together with their district and county judges to arrive at a concise PSI report format which will supply timely, accurate, objective and relevant information. The format should provide at the least:
- (1) a complete description of the circumstances of the offense;
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 - (5) a summary of the most significant aspects of the report with specific recommendations as to sentencing if the sentencing court so requests; an outline of proposed corrective plan should he or she be placed on probation.
- II.6. A presentence investigation report should be sent with every incarcerated offender to the institution receiving him.
- II.7. A probation officer should be present in court whenever a defendant is sentenced to probation.
- II.8. Data collected through pre- and post-sentence investigations should be maintained by each department and periodically analyzed and reviewed for trends in sentencing. Annual reports including this information should be presented to district and county judges for their examination.
- II.9. Statewide and in-service training should be designed to:
- (1) help departments plan data collection regarding sentencing and court practices;
 - (2) consider the value and use of probation prediction models; and
 - (3) help probation officers develop and improve their writing style.
- II.10. Departments should use the performance standards contained herein (pp. 30-31) to measure the effectiveness of their presentence functions.

The Master Plan's surveys of probation department, district court and county court practices show a need to reiterate the case for presentence investigation reports to inform judicial decisions. Only two-thirds of the district judges responding now require a background investigation before sentencing (Q2, #25). While sixteen percent (16%) of the county judges use the probation department to investigate defendants' backgrounds in at least one quarter of the cases they decide, another twenty-five percent (25%) never use the department in this capacity (Q3, #12). Among our sample of felony offenders actually placed on probation during 1976, 62% received the benefit of PSI reports, a higher percentage than we would expect to find statewide. The survey further revealed that only sixty probation departments render detailed PSI's (by the long form) to their district court or courts. Forty-six departments attached to a district court render it no form of PSI services, and eighty-three departments render their county courts no PSI services.

Much progress seems to have been made in the past ten years. In the 1967 commentary to the ABA Standards for Sentencing Alternatives and Procedures, Texas was cited as a state where presentence reports "seem rarely to be used at all"--in contrast to the federal courts, where eighty percent of the sentences handed down then followed upon an investigation and report.¹⁷ Still, however, one-third of the district judges polled do not require that a PSI

provide them with information as basic as prior criminal record, education and family background, employment, and stability in the community.

One key to this is certainly the inadequacy of resources and supporting staff that would permit PSI's and written reports for every felony and misdemeanor sentence considered. Hence the need to provide sufficient funds for trained staff desiring and able to undertake this function. The other key is judicial policy--a failure to recognize the need for information by which to apply consistent sentencing criteria.

The objectives of the presentence report are:

to focus light on the character and personality of the defendant, to offer insight into his problems and needs, to help understand the world in which he lives, to learn about his relationship with people, and to discover those salient factors that underlie his specific offense and his conduct in general.¹⁸

The report's original and primary function is to assist in determining good candidates for probation. It may further be used to recommend other sentencing alternatives appropriate to a case. The probation department and local service agencies, or alternately, prison and parole staff rely upon the facts, analysis, and recommendations it contains.

Investigative reporting before a sentence is handed down meets the tests of common sense. Should the defendant be placed on probation, such information as is collected for the PSI will be necessary to the department in any case. Should sentence be executed, the institution

of commitment will need diagnostic and background information much more easily provided by a local agency. The suggested corrective "plan" may be used to define not only the agencies best suited to handle an individual, but also any special conditions of probation which might be necessary to its successful fulfillment. It is clearly preferable for these to be settled at the time of sentencing, rather than necessitate a later hearing in order to amend the conditions of probation.

Again, if a correction plan is in the hands of the probation officer at the time a sentence is probated, he is enabled to begin effecting it immediately. Contact should be established before the sentenced defendant leaves the courtroom. Probation requirements and cash assessments can be then explained and discussed, a reporting date set, and so forth. The presence of the probation officer in court at sentencing assures that the convicted offender connects the court sanction with the supervision process.

The period first following upon the sentence is that most crucial to probation's success: the curve describing offenders lost through recidivism drops off rapidly after the first three months of probation. Relationships initially established between probations and the probation authority/officer are best predicated upon an informed decision by the court and an informed approach by the officer. All of these reasons argue for an investigation before, not after, sentencing. (Of course, whenever a

presentence investigation is not completed before sentence is probated, then a post-sentence investigation and report should be completed for record keeping and casework purposes.)

While calling for more universal use of some form of objective background investigation before sentence is assessed, we also recognize the need for flexibility in requirements for the report. Lengthy, detailed socio-psychological reports are time consuming to both judge and probation officer, and inefficient when used for less serious misdemeanants, or for a habitual petty offender. Departments should therefore be prepared to report the findings of their investigation in either of two formats-- one detailed and the other summary in nature ("long form" and "short form").

Various models are plentiful. The Texas Adult Probation Manual provides one such model for the short-form PSI,¹⁹ organized as follows:

- (1) Court data (identifying data, prior record, bail bond status, circumstances of the offense)
- (2) Personal information
- (3) Military Record
- (4) Employment
- (5) Financial means
- (6) Summary evaluation

Much of the form is printed, and therefore easily completed. This type of form does not burden the court with irrelevant and unconnected details, does not strain limited

clerical resources, yet provides all information agreed to be necessary to rational sentencing. See Exhibit II-A, p. 91.

One other model among those we examined is reprinted here for the consideration and experimentation of local departments. It was developed by the State of Washington to remedy (1) the strain on probation staff created by lengthy reports, and (2) the failure of judges to make use of same.²⁰ A five-part structure was developed and tested. It includes a pre-printed cover sheet and prior criminal record form, to be followed by three narrative accounts whose length will depend upon the complexity of the case (first a description of the offense, then the defendant's statement, and finally, the officer's evaluation).

It is recommended that departments work with their district and county judges in developing suitable formats for presenting the information desired. That information which is vital to intelligent disposition can be collected and verified in a matter of hours. Volunteers are successfully used by several departments to help gather information and prepare the report.

Most judges desire a recommendation from the probation department regarding the defendant's appropriateness for probation. Much has been said in favor of using articulated sentencing criteria to achieve more rational sentencing, and thereby improve correctional programs.

Although several distinguished groups have promulgated

criteria for granting of probation and other community sanctions, no such official body of criteria exists here in Texas. A brief review is therefore offered to assist probation officers preparing presentence investigation reports as they make recommendations to the court.

The ABA Advisory Committee on Sentencing Alternatives and Procedures comments that:

...the starting point for every sentence should be probation or some other sentence not involving commitment or confinement, and that the extent to which commitment or confinement is employed in a given case should turn on the appearance of specific reasons which seem to call for that disposition.²¹

The Texas Court of Criminal Appeals has given this basic stance credence in Kelly v. State (1972; 483 S.W. 2d 467), in which it established that "any logical interpretation of probation laws tending to encourage granting probation if at all justified is favored."

The ABA Standards Relating to Probation recommend three criteria by which to judge that a felon could not be safely supervised in a nonincarcerative setting, as follows:

- (a) The probation decision should not turn upon generalizations about types of offenses or the existence of a prior criminal record, but should be rooted in the facts and circumstances of each case. The court should consider the nature and circumstance of the crime, the history and character of the offender, and available institutional and community resources. Probation should be the sentence unless the sentencing court finds that:
 - (i) confinement is necessary to protect the public from further criminal activity by the offender; or

- (ii) the offender is in need of correctional treatment which can most effectively be provided if he is confined; or
- (iii) it would unduly depreciate the seriousness of the offense if a sentence of probation were imposed.
- (b) Whether the defendant pleads guilty, pleads not guilty or intends to appeal is not relevant to the issue of whether probation is an appropriate sentence.
(Standard 1.2)²²

More specifically, Article 7 of the Model Penal Code (American Law Institute, 1962) articulates the authority of the court in sentencing and further defines grounds which, "while not controlling the discretion of the Court, shall be accorded weight in favor of withholding sentence of imprisonment." These are:

- (a) the defendant's criminal conduct neither caused nor threatened serious harm;
- (b) the defendant did not contemplate that his criminal conduct would cause or threaten serious harm;
- (c) the defendant acted under a strong provocation;
- (d) there were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
- (e) the victim of the defendant's criminal conduct induced or facilitated its commission;
- (f) the defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that he sustained;
- (g) the defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime;
- (h) the defendant's criminal conduct was the result of circumstances unlikely to recur;
- (i) the character and attitudes of the defendant indicate that he is unlikely to commit another crime;
- (j) the defendant is particularly likely to respond affirmatively to probationary treatment;
- (k) the imprisonment of the defendant would entail excessive hardship to himself or his dependants.

The Model Penal Code goes on to affirm that:

- (c) When a person who has been convicted of a crime is not sentenced to imprisonment, the Court shall place him on probation if he is in need of the supervision, guidance, assistance or direction that the probation service can provide.²³

Aggravating factors persuasive of the need for imprisonment have likewise been articulated, by Fogel, who incorporates them into his proposed "Justice Model" for sentencing and corrections.²⁴ These are reproduced on the page following.

Presentence investigation reports should provide judges with sufficient information that they may consider all the grounds adopted in the Model Penal Code. In addition, when the report recommends probation, it should briefly spell out the degree and type of "supervision, guidance, assistance or direction" it intends to provide the defendant if probated. Officers making recommendations should take care to outline more than one option for the court, providing an alternative in case it should not concur with the recommendation.

Several departments in Texas have experimented with prediction models to guide recommendations for probation-- schemes for rating a candidate by those variable which seem to determine with some accuracy its success. Such schemes are not infallible: scientifically constructed research studies have been unsuccessful in validating strict predictive sentencing and correlative treatment modalities.²⁵ They can, however, be prudently used both to guide and to test the investigating officer's judgment about a defendant before making recommendations to the court.

Factors in Aggravation Favoring Incarceration

The following factors shall be accorded weight in favor of imposing a term of imprisonment, and in the instances specified shall mandate a term of imprisonment.

(1) that in the commission of a felony offense, or in flight therefrom, the defendant inflicted or attempted to inflict serious bodily injury to another. Serious bodily injury as used in this Section means bodily injury which creates a substantial risk of death, or which causes death or serious disfigurement, serious impairment of health, or serious loss or impairment of the function of any bodily organ.

(2) that the defendant presents a continuing risk of physical harm to the public.

If the court so finds and in addition finds the factors specified in subsection (1) of this Section, and that an additional period of confinement is required for the protection of the public, the defendant may be sentenced as provided (see below for sentencing schedule) in this Code whether or not the defendant has a prior felony conviction. However, a sentence under this Section shall not be imposed unless the defendant was at least 17 years of age at the time he committed the offense for which sentence is to be imposed.

(3) that the defendant is a repeat offender whose commitment for an extended term is necessary for the protection of the public. A defendant of this type shall have sentence imposed pursuant to (the sentencing schedule of) this Code. Provided, however, a sentence shall not be imposed pursuant to this Section unless:

(a) the defendant was at least 17 years of age at the time he committed the offense for which sentence is to be imposed;

(b) the defendant has been convicted of at least one other Class 1 or Class 2 felony or two or more lesser felony offenses within the 5 years immediately preceding commission of the instant offense, excluding time spent in custody for violation of the laws of any state or of the United States.

(4) that the defendant committed a felony offense that occurred under one or more of the following circumstances:

(a) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(b) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(c) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it, in circumstances where his example probably would influence the conduct of others;

(d) if the court, having due regard for the character of the offender, the nature and circumstances of the offense, and the public interest finds that a sentence of imprisonment is not the most appropriate disposition under this Code, the grounds listed in paragraphs (1) and (4) above shall be considered as factors in aggravation of the sentence imposed (non-imprisonment).

The recent Comptroller General's report to Congress on the state of probation systems in this country identified the need to provide better information for sentencing as one of the major factors limiting probation's ability to adequately safeguard communities, and urged greater use of such prediction models.²⁶ Researchers tested the validity of six different models, most of them now used to predict parole outcome, examining records for a large sample of probationers from three counties in Pennsylvania, Arizona, and Oregon, and comparing actual outcome for these cases with projected outcome according to each model. Three of the models were verified as indicating with some accuracy probationers' likelihood of success.²⁷ Two are appended at the end of this chapter, along with a more complex scoring system used now by Dallas County's Adult Probation Department. Interested readers are referred to this report (State and County Probation: Systems in Crisis), published by LEAA and available from the Government Printing Office, Washington, D.C.. Departments are encouraged to experiment with one or another model. No rigid model, however, should fix absolutely those defendants for whom probation will be recommended and those for whom it will not be recommended.

When should the investigation begin and report be prepared? One-third of the district judges surveyed for this Master Plan indicate that a probation officer submits a background investigation report on defendants before

the court has found them guilty (see Volume I, p. 271: Q2, #15). While this practice is thus relatively common, many judges are wary of the constitutional issues it raises, since the investigation "will undoubtedly represent an unwarranted invasion of the defendant's privacy if he is later acquitted."²⁸ Also, much of the information contained in the report is inadmissible on the question of guilt, yet may come to the attention of the court before guilt is determined. Two other arguments against investigating the defendant before adjudication are: the possibility the report will never be used, in the case of acquittal; and the need to obtain information directly from the defendant regarding circumstances of the offense.

The ABA Standards regarding Sentencing Alternatives and Procedures suggest that it is appropriate to commence the presentence investigation prior to adjudication of guilt in only two circumstances:

- (1) when the defendant, with the advice of counsel, if he so desires, has consented to such action, and
- (2) if adequate precautions are taken to assure that nothing disclosed by the presentence investigation comes to the attention of the prosecution, the court, or the jury prior to an adjudication of guilt. The court should be authorized, however, to examine the report prior to the entry of a plea on request of the defense and the prosecution.²⁹

This standard was framed to take into account situations where the defendant intends to plead guilty and is willing to cooperate, and where a trial court sits in terms.

Except where the defendant consents and where precautions

are taken to avoid prejudice on the issue of guilt, preferred procedure calls for a bifurcated trial and sentencing process in which the presentence investigation is undertaken only after an adjudication of guilt.

A second procedural question, and one which arouses controversy, is disclosure of the report. It is generally recommended that confidentiality of the report be protected, and that it be made available only to:

- (1) the sentencing court, or judges who participate in a sentencing council or conference;
- (2) reviewing courts where relevant to an issue on which an appeal has been taken;
- (3) persons or agencies with a legitimate professional interest in the information it contains; and
- (4) counsel for the defendant and counsel for the state (or, defendant himself if not represented by counsel),³⁰

The 65th Legislature has recently amended Section 4 of Article 42.12 (H.B. 97), directing that: "Defendant, if not represented by counsel, counsel for defendant and counsel for the state shall be afforded an opportunity to see a copy of the report upon request." That same section directs the probation officer to send a report of his investigation to the institution of commitment whenever sentence is executed. Other persons and agencies having "a legitimate professional interest" in the PSI report include physicians or psychiatrists, correctional programs involved in treating the offender, and other probation departments if jurisdiction is transferred.

Effective performance of a function depends upon good management and organization. Many administrators, particularly in larger departments, feel that presentence investigations are most efficiently the responsibility of a special court services officer or unit having either limited or else no regular case load supervision duties. The department providing pretrial release supervision and services is in an excellent position to operate so. El Paso Harris, Tarrant and Travis counties are among the few with special PSI units. The investigator relinquishes contact after conducting his investigation. Because he specializes, he may acquire greater proficiency with the reports.

Most departments doing PSI's, however, manage court services as an integrated part of casework and referral duties. The probation officer is a generalist, balancing different but related functions in a day's work, and placing each in the context of the entire probation process. He lives with his recommendations. Although some writing on this issue seems to be prejudiced in favor of specialization and division of duties, we do not find sufficient compelling evidence to favor one system over the other.

It is recommended that probation departments measure the effectiveness of their presentence function according to the recommendations opening this section of Chapter Two as well as the performance standards that follow.

- (1) The organization and management of investigative functions ensure timely, accurate, objective and relevant reporting to all courts.
- (2) A sufficient number of qualified staff, and adequate administrative support are allotted to investigative functions.
- (3) Priority is assigned to expediting investigations and reports without adverse effect upon other programs and services.
- (4) Investigations provide the court with information and analysis tailored in the degree and kind of detail to the nature of the judicial decisions to be made.
- (5) Investigations, reports and recommendations are subject to on-going supervision and review by both judges and department staff.
- (6) The probation department collaborates with the courts and other concerned parties in defining criteria to guide dispositional decision-making.
- (7) Probation officers are provided with written guidelines for making dispositional recommendations.
- (8) Alternatives to incarceration are recommended as the disposition where community safety is not endangered.

(9) The confidentiality of investigations, reports and records is safeguarded.

(10) Written procedures are set for furnishing records and reports to authorized persons and agencies.

To summarize, district and county judges should be better informed to understand the need for reliable PSI reports to help bring consistency to sentencing practices. Probation chiefs should encourage judicial use of these reports with each judge whose court they serve, and see that investigative services are efficient and effective. District and county judges hearing criminal cases should in turn take initiative to see that reports are requested in every case where incarceration is possible, whether a plea of guilty is entered or not. Presentence investigations should begin to play a larger role in improving judicial sentencing.

Equity in Sentencing:
Guidelines and Criteria

RECOMMENDATIONS

- II.11 Sentencing should be based upon the circumstances of the particular offense, the needs of society, and the needs of the individual offender.
- II.12 Statewide sentencing institutes should be developed by the State Bar and the Center for the Judiciary for the purposes of improving sentencing procedures and decisions. Among their aims should be the development of criteria for use of alternatives to incarceration. These criteria should not be constrained by legislated guidelines or mandates.
- II.13 A practical study of felony and misdemeanor sentencing in Texas should be undertaken, with a view to recommendations for structuring judicial discretion through sentencing guidelines.
- II.14 If jury sentencing is to remain a practice, the Legislature should make possible judicial imposition of special probationary conditions strictly for constructive, rehabilitative purposes when a jury recommends probation.

Equity in sentencing has been called "a necessary first step in achieving justice".³¹ Two problems impairing the full effectiveness of community corrections systems in Texas have already been identified and discussed: existing alternatives to lengthy confinement are not used enough in most jurisdictions; and too many sentencing decisions are not based upon full and objective information about the convicted offender. The third problem is one belonging not just to courts in Texas, but to jurisdictions in all states, and that is disparity and inconsistency among sentences.

More and more, thinkers in the criminal justice field have pointed to sentencing inequities as a major weakness in our criminal justice system as a whole.³² One such group, arguing the necessity for balanced, fair, yet certain punishment, summarizes the problem this way:

...the American system of sentencing is marred by unfair disparity of sentences. The same result obtains whether punishments are measured by the statute violated, by the act committed, by the offender's amenability to rehabilitation, or by comparisons with other nations. Comparative data indicate that sentences at the very high range are imposed more frequently and are far longer in the United States than in other countries for comparable offenses and offenders. By the same token, sentences at the low range--especially sentences of no imprisonment--are also imposed for serious offenses more frequently here than in most other countries.³³

Where certainty is elevated as an aim, judicial discretion must either be narrowed, controlled, and made reviewable³⁴ or else structured and informed.³⁵ Reformers search for a vehicle by which to do this, at the same time rethinking the very premises upon which corrections has for the most part operated these past forty or fifty years.

Indicative of the significance of these questions and the gathering momentum to do something about them, as of December, 1976, three states had abolished their indeterminate sentencing laws (Maine, Indiana, and California); bills substituting a determinate or flat-time statutory framework were pending in six state legislatures (Alaska, Colorado, Connecticut, Illinois, Ohio, and Washington); and in Minnesota such a bill was passed but vetoed by the Governor. Virginia, Florida and South Dakota are also presently studying possible statutory revisions in this direction.³⁶ The movement is

largely a response to three things: rejection of rehabilitation as the primary purpose or end of criminal sentencing; the desire to limit both judicial and administrative discretion over corrections; and the heat of public reaction to (until lately) rising crime rates.

Five conditions work against a consistent sentencing system at the present time. They are: (1) a confusion of rehabilitative and punitive objectives, and differing judicial philosophies governing decisions; (2) the breadth of judicial discretion statutorily allowable, absent a body of guidelines, current data, or well-defined sentencing criteria to help direct individual decisions; (3) sentencing by juries; (4) predominance of plea/sentence agreements negotiated by prosecuting and criminal defense attorneys without judicial consultation of presentence investigation reports; and (5) the parole process which prescribes actual release of incarcerated offenders. This report treats only with the first four.

The limits of action that can be taken against the first condition--confusion and differences over sentencing objectives--are probably informed discussion, energetic debate, and the circulation of the best thinking, research, and analysis. Most judicial conferences at present deal with a wide range of procedural and substantive issues, of which criminal sentencing is but one. Special sentencing institutes are therefore recommended as likely and needed forums for reexamining and redefining the purposes and application of sentences. Several of the most current and

thorough works aimed at sentencing reform are listed in the footnotes and bibliography at the end of this chapter.

The second impediment to consistency in sentencing is broad judicial discretion. Yet discretion is the necessary alternative to "mechanical and inhumane mandatory sentencing,"³⁷ and can see that justice is both individualized and evenhanded in application.

Judges today find themselves under a tremendous amount of pressure, and subject to criticism from many sides. As Dr. Norval Morris observes:

Judges as sentencers are attacked both from the left and from the right--both by the "treaters" and the "punishers." The attack from the right takes the form of mandatory minimum sentences and the attack from the left--the "treaters"--is expressed as doubt whether the judge's training prepares him to impose the appropriate sentence. This failing is not peculiar to judges, however; we are all quite ignorant about selecting the appropriate sentence. We lack established criteria of sentencing. Nevertheless, the judicial abdication of power to parole boards has brought neither more uniformity to sentencing nor more rehabilitation to prisons.³⁸

Unlike some others, Morris calls for a reassertion of the trial judge's role, and asserts that "those facts that are predictive of a man's capacity to conform in the community are known or knowable at the time he enters prison."³⁹ Finally, he argues that: "only the trial judge can restore moral integrity to our criminal justice system."⁴⁰

The answers being posed to this problem now are:

- (1) narrow, control, and make judicial discretion reviewable;
- and/or (2) structure judicial discretion through training as

well as the development and use of sentencing guidelines. Feasibility of the latter direction has been studied for the past two years under a grant from the National Institute of Law Enforcement and Criminal Justice (a branch of LEAA). Guidelines are modelled after those developed for the U.S. Parole Commission. The study's findings confirm that sentencing guidelines can be "an attractive and intelligent compromise" between the two extremes of "unreasoned, guess-work, indeterminate sentencing," and legislated mandatory sentencing.⁴¹

These guidelines do not prescribe what a sentence ought to be, but rather consist of data that describe factors which have influenced sentencing decision in the past, and that weight the importance that has been accorded each of these factors. The quantitative and qualitative guidelines approach favored:

enlists the cooperation of trial court judges (who retain a collective responsibility for the control of the guidelines), rather than imposing restrictive sentencing upon them by fiat.⁴²

Among numerous tentative findings of the study so far are these. (1) Sentencing guidelines are both desirable and feasible. (2) The sentencing decision follows a bifurcated process, the important decision being whether to incarcerate or no, and the secondary decision setting length of incarceration. (3) Much PSI-rendered information is only sporadically available to judges. (4) Required articulation of specific reasons for sentencing in every case, without exception, tends to trivialize the reason-giving process. (5) Once operational, the guideline system does not require

additional personnel for the court, and indeed, should result in a net savings of time to the probation staff.

The Judicial Section of the State Bar (through the Texas Center for the Judiciary) is undertaking a study, along similar lines, of sentencing practices and of ways to structure judicial discretions through sentencing guidelines. In the meantime, judges should be encouraged to periodically review the sentences they have assessed and to appraise their effects. They should be informed of the status of offenders they have sentenced, and provided with broad statistical data concerning all offenders sentenced in Texas (ABA Standard 7.5, relating to Sentencing Alternatives and Procedures). Regular sentencing councils or reviews at the local level, and sentencing institutes at the state level should provide forums for further debate about the appropriateness of sentences to the offender and to the crime.

The third factor described as frustrating equity among sentences is jury sentencing. Texas is among a minority of states allowing the defendant to elect jury-sentencing. The option is exercised in a small proportion of cases: among those sampled in compiling our profile of felony offenders placed on probation in the first months of 1976, 97% were probated by the authority of the court (or judge), and only 3% were probated by a jury. Jury sentencing's impact is therefore not as significant as are the first two factors. However we feel it sufficiently warrants an outline of the arguments pro and con.

Professional opinions on jury sentencing are almost unanimous in support of its abolition in all non-capital cases. Such opinion is reflected in the work of the Wickersham Commission in 1931, the President's Commission on Law Enforcement and Administration of Justice in 1967, the Model Sentencing Act first promulgated in 1963, and the Model Penal Code of 1962. These were in turn cited and endorsed by the American Bar Association's Standards Relating to Sentencing Alternatives and Procedures. Finally, the Texas Criminal Justice Standards and Goals states categorically that "jury sentencing should be abolished in all situations" (Courts, Standard 5.I, p. 92).

Opposition to jury determination of punishment in non-capital cases is based on four arguments, summarized in the ABA commentary to their standards.⁴³ (1) Sentencing by a distinct jury at each trial necessarily guarantees significant disparities between sentences. (2) Sentencing by the jury:

is inconsistent with the principle that the sentencing decision should be based upon complete information about the defendant himself as well as his offense. Much of the information most helpful at the sentencing stage is properly inadmissible on the question of guilt, and to admit it only on the question of sentence is highly prejudicial if the jury is to consider both questions at the same time.⁴⁴

Separate hearings, however, would be both time consuming and costly. (3) Jury sentencing invites compromise of the basic premise that conviction must follow only on a determination of guilt omission beyond a reasonable doubt. A jury may well resolve doubt as to guilt by compromising on

a light sentence. (4) Finally, a proper sentencing decision:

calls on an expertise which a jury cannot possibly be expected to bring with it to the trial, nor develop for the occasion on which it will be used....An enlightened sentencing decision today calls for a sophisticated and informed judgment which takes into account a vast range of additional factors, from the likelihood that the defendant will commit other crimes to the types of programs and facilities which may induce a change in the pattern of activity which led to the offense.⁴⁵

The ABA's commentary goes on to acknowledge a weakness in this last argument, granting that many trial judges also lack the necessary expertise to make proper sentencing decisions. The answer, however, is felt to be "better trained and better selected judges," who are assisted by reliable PSI's for every case and by enunciated guidelines or criteria for sentencing.

Arguments for the retention of jury sentencing are likewise summarized in the ABA commentary.

1. The anonymity of jurors makes them less subject to the pressures of public feelings and opinion than the elected judge, who must seek popular favor at the next election.
2. The brief tenure of the jury makes corruption or improper influence especially difficult.
3. Jury-fixed punishment diminishes popular distrust of official justice.
4. The judgment of the jury may be more sensitive than that of a judge because its members, unlike the judge, are not often confronted with the recurrent problems of court cases and therefore do not become calloused.
5. A jury lacking in sentencing power tends to acquit a defendant it believes guilty when it fears that the sentence the judge will probably impose is too severe.
6. Because it is a composite, a jury levels individual opinions and provides a reconciliation of varied temperaments, and therefore is more apt to assess a fair punishment.⁴⁶

The Master Plan survey assessed current thinking around the state on this issue, asking "should the courts be given the sole authority for sentencing?" A decided division of feelings is apparent from responses. Groups who affirmed are summarized as follows:

GROUPS SURVEYED	YES	QUESTIONNAIRE
Probation Officers	75% (93)	Q1, #76
District Judges	52% (79)	Q2, #42
County Judges	49% (120)	Q3, #28
Prosecutors	41% (60)	Q5, #34
Defense Attorneys	19% (21)	Q6, #38

No recommendation is based upon this survey assessment.

Two related issues hinge on this one. In Texas a tradition of not interfering with the power of the jury has led to provisions limiting the court's discretion when the former recommends probation. In setting conditions to that probation, the court could not in the past go beyond those ten enumerated in Article 42.12, Section 6 (see Section 3a, same Article). As of this date (June 1, 1977) the 65th Legislature has expanded the statutory conditions to fifteen in number. Furthermore, the court is required to grant it if the jury recommends probation in their verdict. Finally, as mentioned already, earlier, under amendments by the 65th Legislature, only the jury will now be allowed to probate a defendant convicted of an offense in which a deadly weapon is exhibited or used.

A small majority of the district judges polled (53%) would like to be authorized to deny probation when it is

recommended by a jury (see Appendix B, Volume I: Q2, #43). The judge may already grant probation even when the jury does not recommend it, except (as noted above) for certain categories of offenses. A much stronger consensus favored allowance of special conditions when probation is granted by a jury, among 82% of the district judges (Q2, #44) and 75% of the prosecuting attorneys (Q5, #39). However, this move was energetically opposed by criminal defense lawyers, only 27% of whom were sympathetic (Q6, #35). Those favoring statutory revision to permit this would like to be able to require a defendant's participation in a treatment or rehabilitation program, or to impose stricter controls through more specific behavior requirements. Those opposing it fear the abuse of judicial discretion from punitive conditions. S.B. 695 and S.B. 61 have taken care of this need, by expanding the statutorily defined conditions (65th Legislature, Regular Session).

Judicial discretions are not alone in determining sentences to probation and other community alternatives. The fourth factor mentioned, and another area of what one critic terms "ill-controlled discretion"⁴⁷ belongs to prosecutors in the form of plea bargaining. Plea bargaining is an integral part of the sentencing process and of the probation sanction. Only about ten percent of the cases disposed of in district courts proceed through contested trial, and about the same percentage of felons probated have so proceeded, according to our survey (Volume I, Appendix L). The remaining ninety percent involve pleas of guilty or

nolo contendere, the products of "a market place negotiation with an overloaded court system."⁴⁸ The sentencing inequities and occasional improprieties which result must be addressed and resolved with the cooperation of district and county attorneys throughout the state.

Plea bargaining in order to expedite the movement of cases threatens defendants' rights and public safety. A district attorney for the city of Philadelphia has thus described these threats:

The bitter experience of our criminal courtrooms has demonstrated that the bargained plea is really no bargain. We should not settle for a system which simultaneously deprives the innocent defendant of the forum where the prosecutor is compelled to prove his case, and the public is victimized by excessive leniency for hard-core criminal repeaters.

Experience with plea bargaining in many jurisdictions has taught us the painful lesson, again and again, that the violent criminal who secures his freedom through plea bargaining is often encouraged to rob or rape again. The practical effect of plea bargaining unquestionably results in the violent recidivist receiving less than an adequate prison sentence.⁴⁹

In a survey of "Role Perception of Operational Criminal Justice Personnel," thirty-eight percent of the criminal justice practitioners sampled in Texas and three other states found it probable that most defense attorneys in plea bargaining negotiations "pressure clients into entering a plea that the client feels is unsatisfactory," in order to expedite the movement of cases.⁵⁰

Where out-of-court agreements for sentencing recommendations are honored by judges, the implications for probation and other correctional administrators are clear. Probation

departments must expend a disproportionate amount of time supervising incorrigible offenders, or else must work with persons who have plead guilty rather than languish in jail for months awaiting trial. Criminals who pose a proven threat to the community should not be afforded the probation sanction, and probation departments should not be given the thankless and hopeless task of supervising them.

Present policies provide for, as one writer terms it, "open covenants secretly arrived at."⁵¹ It is logistically impossible to govern out-of-court agreements between defense counsel and prosecutors. In some courts, however, this agreement is declared to the trial judge who, while not bound to adhere to its terms, is given to do so in all but exceptional cases provided there is factual basis for the plea and the judge is satisfied that the defendant understands his rights under the law.

Here in Texas, the 64th Legislature pointed a course away from unrestrained bargaining of sentences for pleas by requiring trial judges to advise defendants who plead guilty that the judge is not bound by the recommendations of the prosecuting attorney. Thus the defendant pleads under no false assurances of a promised sentence. Local policies on plea negotiations, however, vary.

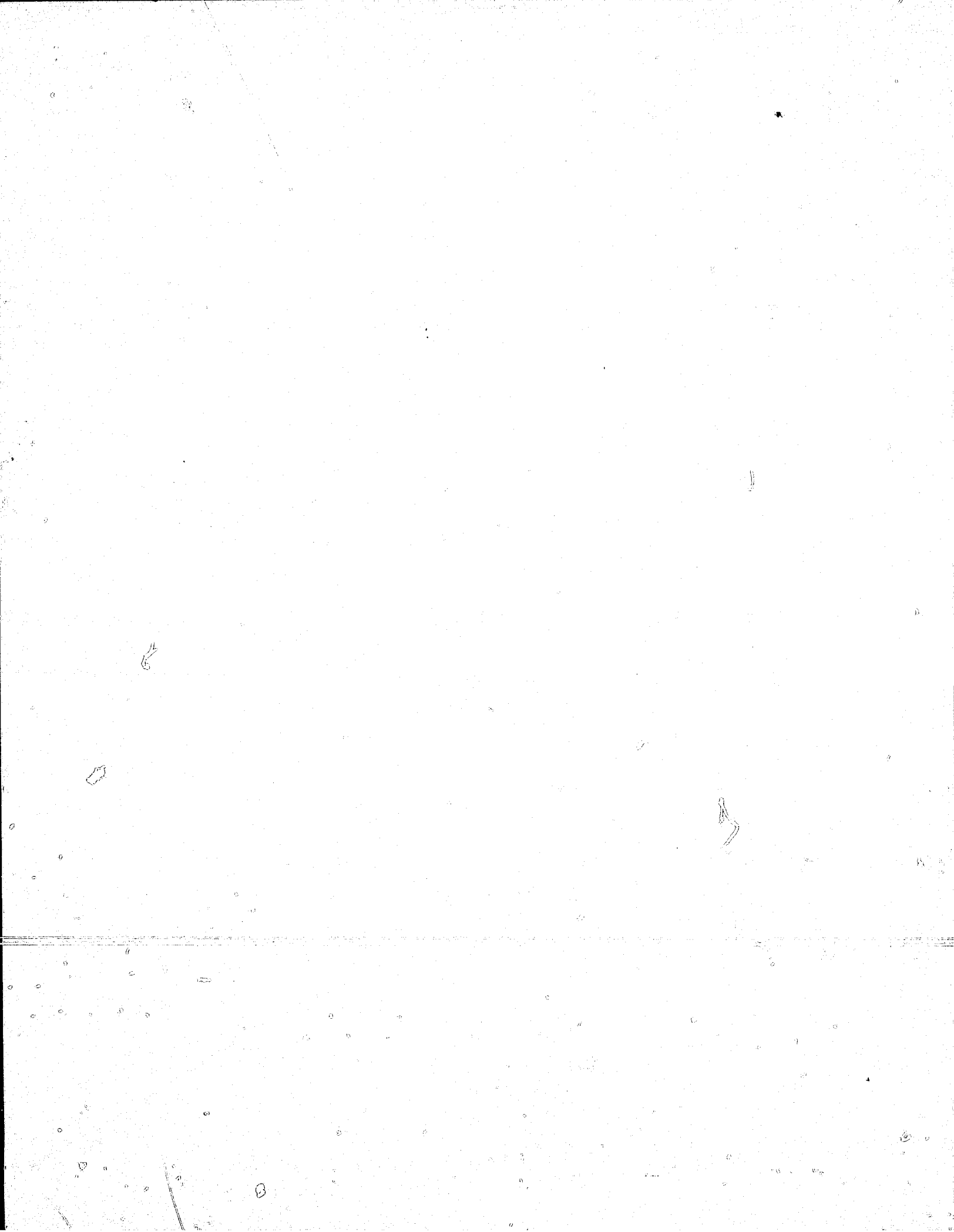
Within the past few years several district courts around the state have instructed prosecuting attorneys that they will solicit no recommendations as to sentences when pleas are entered. Courts in El Paso, Bell, Bexar and

Potter counties have adopted this practice. It is possibly too soon to study the effects of this curtailment of prosecutorial authority. A department administrator in one of the jurisdictions named, however, has this to say.

From the standpoint of the probation department (this policy) is excellent....in jurisdictions where plea bargaining is being used, the probation people have little say as to who is a good risk and who is a bad risk, and they generally end up with more bad risks than good risks and later get criticized by the public, law enforcement officers, etc., as to why probation fails. In this jurisdiction I can earnestly say it is working. Our re-arrest and recidivist rates are down and we have an interest in and part of the sentencing.⁵²

Still other courts rely almost exclusively on the negotiated plea procedure, as our felony probationer profile indicates. In eight out of twenty-nine jurisdictions, over ninety-five percent (95%) of the probationers received a negotiated sentence, and in three of these jurisdictions all probationers sentenced during a period of six months had negotiated sentences. (See Volume I, Appendix L of this report.) These and other such courts should reconsider their practices in this area. Those courts in particular who rely upon prosecutorial recommendations without ordering and consulting a presentence investigation report by the probation department should revise this practice. Informed deliberations will realize both cost savings and better community protection.

There are other actions through which plea bargaining might be constructively controlled. One suggestion is increased resources for bench trials. Another is formalized opportunities for discussion between prosecutor, defense counsel, and accused in the presence of a judge. Statewide



CONTINUED

1 OF 5

guidelines could be legislated, along the lines already established by the ABA. Even though enforceable only by local policy, these guidelines would serve to curtail arbitrariness and to bring order and consistency to practices in most courts.

No great enthusiasm for statewide guidelines seems to exist among district and county attorneys or criminal defense attorneys sampled by our survey, however. Only 32% of the prosecutors said they would "favor the establishment of statewide guidelines for plea bargaining;" forty-five percent (45%) of the defense attorneys concurred. The support of both these groups will be necessary to any measures instituted to control abuses of bargaining power. Nonetheless, in view of the state probation departments and other corrections programs have in rational, consistent and informed sentencing, we suggest that the negotiation process be brought above the table as far as it relates to sentencing dispositions.

To summarize, a wide range of sentencing alternatives is available to Texas courts under existing and newly-enacted statutes. Adequate fiscal and administrative support has not (until recently) been forthcoming, however. It is to this state's advantage: (1) that alternatives to incarceration should be understood and used wherever appropriate; (2) that the district and county courts should receive and consider adequate information about convicted defendants; and (3) that programs should be administered so as to make these alternatives practically meaningful.

In most communities a healthier array of community correctional programs is needed. Probation departments require better fiscal support and training in order to provide informative and useful presentence investigations reports for judicial review. Judges need more and better information in order to structure their sentencing decisions: opportunities should be provided for discussion and the sharing of information, and the desirability of formal guidelines based upon present sentencing practices should be closely studied. Greater equity in sentencing must be made a priority.

Probation departments should work closely with district judges to improve sentencing policies and procedures, especially as they affect their programs. They should encourage better use of community sanctions for offenders who are neither violent nor habitual, where these sanctions are not already applied to their full potential. Standards and recommendations for community programs that indeed fulfill their purposes, in protecting the community and turning offenders around, follow in the succeeding chapters of this Plan.

TABLE II-A

Case Load, Sentencing & Recidivism Activity
By Department, 1973-1976

	*	a	b	c	d	e	f	g	h
		Dept. Case Load as of Jan. 1	# New Cases Received	% Felons Probated	Probations # Revoked	# Probationers Reconvicted but not Revoked	# Revocations For Technical Violations	# of Recidivists	% of Recidivism
Harris	1073	11,358	3,107	40%	541	339	27	853	8%
	74	11,974	3,901	45%	528	357	26	859	7%
	75	13,077	4,565	48%	716	390	36	1,070	8%
	76	14,569	4,363	46%	701	435	35	1,101	8%
Dallas	73	9,723	3,169	32%	471	291	134	628	6%
	74	10,015	3,699	49%	607	300	106	801	8%
	75	10,678	4,436	46%	895	318	147	1,066	10%
	76	10,927	4,042	47%	955	327	164	1,118	10%
Bexar	73	2,692	776	49%	91	81	18	154	6%
	74	2,745	625	42%	121	81	30	172	6%
	75	2,770	841	47%	89	84	28	145	5%
	76	3,164	1,006	47%	109	96	22	183	6%
Tarrant	73	2,623	720	46%	127	78	8	197	8%
	74	3,282	1,137	60%	202	99	11	290	9%
	75	3,808	1,330	61%	215	114	13	316	8%
	76	4,216	1,347	54%	258	126	14	370	9%
Travis	73	1,993	632	59%	91	60	2	149	7%
	74	2,398	749	70%	145	72	7	210	9%
	75	2,760	891	77%	117	84	9	192	7%
	76	4,140	989	70%	172	123	4	291	7%
El Paso	73	1,471	366	47%	166	45	3	208	14%
	74	1,681	468	70%	68	51	5	114	7%
	75	1,506	276	44%	87	45	19	113	8%
	76	1,347	216	44%	85	40	26	99	7%
Jefferson	73	752	178	29%	48	24	13	59	8%
	74	724	198	39%	47	21	7	61	8%
	75	938	538	51%	125	27	33	119	13%
	76	1,115	474	50%	120	33	31	122	11%
Bell	73	699	239	40%	43	21	20	44	6%
	74	679	269	50%	49	21	15	55	8%
	75	806	406	60%	46	24	10	60	7%
	76	901	451	62%	49	27	5	71	8%

*Key:

a = Reported felony case load

b = Number of felons newly probated during the year (TJC)

c = Percentage of felony convictions receiving probated sentence (TJC)

d = Number of felony probations revoked (TJC)

e = Estimated number of probationers reconvicted but never revoked = (3%)(a)

f = Estimated number of probationers revoked on a technical violation (not new conviction)

g = (d + e - f)

h = $\left(\frac{g}{a}\right)$, the percentage of department caseload recidivating during the year

TABLE II-A
Case Load, Sentencing & Recidivism Activity
By Department, 1973-1976

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	★	a	b	c	d	e	f	g	h
		Dept. Case Load as of Jan. 1	# New Cases Received	% Felons Probated	Probations # Revoked	# Probationers Reconvicted but not Revoked	# Revocations For Technical Violations	# of Recidivists	% of Recidivism
Galveston 1973		NO RESPONSE (N/R)							
	74	N/R							
	75	695	170	44%	18	21	3	36	5%
	76	799	239	49%	33	24	3	54	7%
Anderson	73	649	74	63%	6	18	0	24	4%
Houston	74	812	134	82%	1	24	0	25	3%
Henderson	75	884	130	82%	8	27	0	35	4%
	76	704	113	76%	5	21	0	26	4%
Hidalgo	73	645	213	53%	16	18	6	28	4%
	74	699	185	67%	23	21	3	41	6%
	75	851	258	69%	27	27	2	52	6%
	76	920	264	66%	36	27	5	58	6%
Cameron	73	629	239	40%	43	18	19	42	7%
	74	670	269	50%	49	21	11	59	9%
	75	840	406	60%	46	24	26	44	5%
	76	826	248	74%	21	24	24	21	3%
Potter	73	598	189	72%	34	18	17	35	6%
Randall	74	721	227	69%	56	21	23	54	7%
Armstrong	75	748	211	61%	68	21	10	79	11%
	76	874	274	60%	86	27	11	102	12%
Taylor	73	555	95	35%	20	18	5	33	6%
	74	574	116	36%	13	18	6	25	4%
	75	530	119	31%	20	15	5	30	6%
	76	609	146	37%	30	18	7	41	7%
Denton	73	493	94	74%	22	15	2	35	7%
	74	550	134	55%	16	18	4	30	5%
	75	584	125	51%	23	18	2	39	7%
	76	711	193	64%	21	21	3	39	5%
Wichita	73	240	76	59%	16	6	2	20	8%
	74	451	220	70%	27	15	3	39	9%
	75	394	165	66%	40	12	4	48	12%
	76	397	164	71%	35	12	3	44	11%

*Key:

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e = Estimated number of probationers reconvicted but never revoked = (3%)(a)

f = Estimated number of probationers revoked on a technical violation (not new conviction)

g = (d + e - f)

h = $\frac{g}{a}$, the percentage of department caseload recidivating during the year

	*	a	b	c	d	e	f	g	h	*Key:
		Dept. Case Load as of Jan. 1	# New Cases Received	% Felons Probated	Probations # Revoked	# Probationers Reconvicted but not Revoked	# Revocations For Technical Violations	# of Recidivists	% of Recidivism	
McLennan - 1973		217	73	36%	25	6	8	23	11%	
	74	255	56	22%	24	9	9	24	9%	
	75	401	168	52%	22	12	13	21	5%	
	76	458	144	36%	48	15	15	48	10%	
Tom Green	73	226	73	73%	19	6	2	23	10%	
	74	240	80	59%	7	6	3	10	4%	
	75	266	96	65%	7	9	2	14	5%	
	76	331	132	65%	20	9	2	27	8%	
Nolan	73	141	83	60%	6	3	3	6	4%	
Mitchell	74	132	66	59%	20	3	6	17	26%	
Fisher	75	162	83	59%	10	5	8	8	10%	
	76	194	90	73%	13	6	13	6	7%	
Navarro	73	117	42	56%	3	3	2	4	3%	
	74	139	58	67%	7	3	3	7	5%	
	75	134	51	64%	3	3	1	5	4%	
	76	145	28	56%	3	3	3	3	2%	
Andrews	73	N/R								
	74	N/R								
	75	95	16	42%	5	3	2	6	6%	
	76	96	24	62%	4	3	2	5	5%	
Jasper	73	Department Did Not Exist								
Newton	74	84	43	66%	1	3	0	4	5%	
Sabine	75	162	60	67%	3	6	0	9	6%	
San. Aug.	76	245	74	79%	9	6	3	12	5%	
Liberty	73	50	29	40%	13	2	2	13	26%	
	74	124	88	67%	11	3	2	12	10%	
	75	219	120	59%	11	6	2	15	7%	
	76	311	128	77%	43	9	2	50	16%	
Chambers	73	48	26	46%	2	2	2	2	4%	
	74	51	16	28%	4	2	2	4	8%	
	75	111	50	56%	5	3	2	6	5%	
	76	163	46	54%	6	6	2	10	6%	

a = Reported felony case load

b = Number of felons newly probated during the year (TJC)

c = Percentage of felony convictions receiving probated sentence (TJC)

d = Number of felony probations revoked (TJC)

e = Estimated number of probationers reconvicted but never revoked = (3%)(a)

f = Estimated number of probationers revoked on a technical violation (not new conviction)

g = (d + e - f)

h = $\frac{g}{a}$, the percentage of department caseload recidivating during the year

TABLE II-A
Case Load, Sentencing & Recidivism Activity
By Department, 1973-1976

EXHIBIT II-A

PRE-SENTENCE INVESTIGATION REPORT

Reference No: _____

_____ COUNTY

Date of Report: _____

ADULT PROBATION DEPARTMENT

(Data verified unless noted with (nv) after information.)

I. COURT DATA

NAME: _____ CAUSE NO. _____
(Last) (First) (Middle)

ALIASES: _____ PROBATION DATE _____

SCARS OR TATTOOS: _____

DEFENSE ATTORNEY: _____ PHONE: _____ PROSECUTOR: _____

OFFENSE(S): _____ DATE OF ARREST: _____

USED WEAPON OR VIOLENCE: YES _____ NO _____ NUMBER OF ARRESTS INVOLVING WEAPON OR VIOLENCE: _____

OTHER PENDING CASES: _____ HAS DETAINERS FILED: YES _____ NO: _____

DEFENDANT'S PRIOR ARREST HISTORY INCLUDES: _____ HAS NO PRIOR ARREST RECORD: _____

No.

No.

_____ Arrest(s) as Juvenile

_____ Arrest(s) as Adult

_____ Commitment(s) to State Training School

_____ Felony Conviction(s)

_____ Misdemeanor Conviction(s)

_____ Felony Probation(s)

*See attached arrest report(s)

FBI NO. _____ DPS NO. _____ SO NO. _____ PD NO. _____

CO-DEFENDANTS _____

DOES THE DEFENDANT ADMIT OR THE RECORD REFLECT: (Put (xx) by applicable factor only - elaborate on (xx) in Section VI).

ABUSE OF:

ABNORMAL BEHAVIOR:

_____ Alcohol

_____ Sexual Aberration

_____ Drugs

_____ Mental Illness

_____ Offenses Involving Children

_____ Use of Heroin

_____ Assaultive

_____ (Other) _____

(Specify)

DEFENDANT'S VERSION OF OFFENSE (in brief):

POLICE VERSION OF OFFENSE (in brief, give name of arresting agency, date and location of offense)

II. PERSONAL

PRESENT ADDRESS: _____ PHONE: _____ SINCE: _____
 (Street) (City) (Zip)

RESIDING WITH: _____ HOW LONG: _____
 (Name and relationship)

NO. RESIDENCE CHANGES PAST 2 YEARS: _____ LONGEST RESIDENCE: _____

BIRTHPLACE: _____ DATE OF BIRTH: _____ AGE: _____
 (City) (State)

SEX: _____ RACE: _____ HEIGHT: _____ WEIGHT: _____ EYES: _____ HAIR: _____ COMPLEXION: _____

MARITAL STATUS: _____ TOTAL NO. DEPENDENT CHILDREN: _____ AGES: _____ NO. MARRIAGES: _____

IF SEPARATED, WIFE'S NAME AND ADDRESS: _____

PARENTS' ADDRESS: _____
 (Name, address and telephone number)

FRIEND: _____
 (Name, address and telephone number)

RELIGIOUS PREFERENCE: _____ HEALTH: _____

DISABILITIES: _____

DRIVERS LICENSE NO.: _____ TYPE: _____ EXPIRES: _____

HIGHEST GRADE COMPLETED: _____

SCHOOL: _____

III. MILITARY

BRANCH OF SERVICE: _____ FROM: _____ TO: _____

SERIAL NO.: _____ HIGHEST RANK: _____ TYPE DISCHARGE: _____

IV. EMPLOYMENT

NAME AND ADDRESS OF PRESENT EMPLOYER: _____

TELEPHONE NO.: _____ HOW LONG ON THIS JOB: _____ PRESENT POSITION: _____
 (months)

AT\$ _____ PER MONTH. IS EMPLOYER AWARE OF PENDING COURT ACTION: YES _____ NO _____

SOCIAL SECURITY NUMBER: _____ NO. JOBS HELD PAST 2 YEARS: _____

TOTAL MONTHS EMPLOYED LAST 2 YEARS: _____ LONGEST JOB: _____

HAS A JOB SKILL: YES _____ NO: _____. IF YES, WHAT: _____ HOW MUCH EXPERIENCE: _____
 (years)

V. FINANCIAL

TOTAL MONTHLY INCOME FROM ALL SOURCES: AMOUNT \$ _____
 TOTAL MONTHLY LIABILITIES: AMOUNT: \$ _____. PROBATION FEE OF \$ _____ PER MONTH.
 TOTAL RESTITUTION OF: AMOUNT: \$ _____ TO BE PAID AT \$ _____ PER MONTH.
 RESTITUTION PAYMENTS TO BE PAID TO:

(1) \$ _____
 (Amount) (Name) (Address) (Phone)
 (2) \$ _____
 (Amount) (Name) (Address) (Phone)
 (3) \$ _____
 (Amount) (Name) (Address) (Phone)

VI. EVALUATION: (Point out both positive and negative factors which you feel will have a bearing on this person's ability to adjust on probation. Evaluate this person's chances of successfully completing probation.)

Psychological Test Administered: Yes ____ No _____. If yes, see attached report.

 PROBATION OFFICER

 UNIT SUPERVISOR

Disposition of Case: _____ Date: _____

 PRESIDING JUDGE



STATE OF WASHINGTON
DEPARTMENT OF INSTITUTIONS
DIVISION OF PROBATION & PAROLE

EXHIBIT II-B

PRESENTENCE REPORT
Part 1

TO:		DATE:
NAME		COUNTY AND CAUSE NUMBER
STREET		F.B.I. NUMBER
CITY	STATE	S.O. OR P.D. NUMBER
LIVING WITH		SOCIAL SECURITY NUMBER

CURRENT OFFENSE DATA

OFFENSE(S)	DATE OF ARREST		WEAPON OR VIOLENCE::	TYPE	FINDING OF FACT
			YES <input type="checkbox"/> NO <input type="checkbox"/>		YES <input type="checkbox"/> NO <input type="checkbox"/>
CRIME PARTNER(S)					

ATTORNEY	GUILTY DETERMINED BY	DATE	CUSTODY STATUS	DAYS IN CUSTODY
			JAIL <input type="checkbox"/> PR <input type="checkbox"/> BAIL <input type="checkbox"/>	
VICTIM(S) AND ADDRESS(ES)				

PERSONAL DATA

AGE	DATE OF BIRTH	PLACE OF BIRTH	SEX
RACE	RELIGION	HEIGHT	WEIGHT
		HAIR	EYES
HIGHEST GRADE COMPLETED	CURRENT MARITAL STATUS	NO. OF PRIOR MARRIAGES	
NAME AND ADDRESS OF NEAREST RELATIVE (S)			
DEPENDENTS (RELATIONSHIP, AGE, SUPPORTED BY)			

KNOWN ALCOHOLIC INVOLVEMENT	KNOWN HOMOSEXUALITY	KNOWN DRUG USE OR ABUSE
YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
KNOWN MENTAL ILLNESS	KNOWN MENTAL HOSPITAL	
YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	
IF YES TO MENTAL HOSPITAL QUESTION, GIVE NAME OF INSTITUTION		

SOURCE & AMOUNT OF PUBLIC ECONOMIC SUPPORT

RECENT WORK EXPERIENCE

EMPLOYED BY	JOB TITLE	DATE EMPLOYED	WAGE OR SALARY
NO. OF JOB CHANGES (Last Two Years)	TOTAL MONTHS EMPLOYED (LAST TWO YEARS)	LONGEST JOB (Months) (LAST TWO YEARS)	
NO. OF RESIDENCE CHANGES (LAST TWO YEARS)	TOTAL TIME IN WASHINGTON (Prior to offense)		

MILITARY SERVICE

YES <input type="checkbox"/> NO <input type="checkbox"/>	FROM	TO	BRANCH OF SERVICE
TYPE OF DISCHARGE	HIGHEST RANK	SERVICE NUMBER	

SUBMITTED BY:	APPROVED BY:	REVIEWER
PROBATION & PAROLE OFFICER		

PRESENTENCE REPORT

DI 2-11A

Part II

PRIOR CRIMINAL RECORD

NO. OF PRIOR ADULT ARRESTS: FELONY _____; MISDEMEANOR _____; TOTAL _____

NO. OF PRIOR ADULT CONVICTIONS: FELONY _____; MISDEMEANOR _____; TOTAL _____

NO. OF PRIOR ADULT GRANTS OF PROBATION: SUCCESSFUL _____; FAILURE _____; CURRENT _____

NO. OF PRIOR ADULT JAIL SENTENCES: _____

NO. OF PRIOR ADULT PRISON SENTENCES: _____

NO. OF PRIOR ADULT GRANTS OF PAROLE: SUCCESSFUL _____; FAILURE _____; CURRENT _____

Part III, the description of the offense, without benefit of complicating "legal language", e.g., "feloniously, maliciously, and with forethought", describes the offense in sufficient detail to include the use of weapons or violence, the relationship to the victim, and the like.

Part IV is the defendant's statement and may be concerned with the offense and its motivation, his background, plans for the future, mitigating factors, indeed, anything the offender wishes to bring to the attention of the court.

Part V, the evaluation, remains the heart of the report. It provides in narrative form the important evaluation and recommendation of the probation officer. There is no prescribed sequence for Part V; indeed, a formal sequence would be inhibiting and perhaps preclude a sensitive and creative evaluation of the defendant and his circumstances. Part V is also used for additional commentary on data contained in the other parts of the report.

EXHIBIT II-C
Predictive Model
Likelihood of Probation Success
California Form 65-A

TO OBTAIN RAW SCORES: ADD

11	for all persons	<u>11</u>
19	if no more than two prior arrests (note a)	<u> </u>
15	if arrest-free five or more years or if never before arrested	<u> </u>
14	if no prior known incarceration	<u> </u>
8	if subject offense was not check fraud or burglary	<u> </u>
0.6	times age at subject offense	<u> </u>
	Base expectancy 65A score	<u> </u>

^aBased on adult information if juvenile record unknown..

Rate on a scale of 1-100. A score of 70 or above indicates a very good chance of success.

Taken from Comptroller General's Report to Congress, State and County Probation Systems in Crisis (Wash., 1976) p. 133.

EXHIBIT II-D
Predictive Model
Likelihood of Probation Success

California Form 61-B

TO OBTAIN RAW SCORES:

	<u>If</u>	<u>Add</u>	
A.	Arrest free five or more years	16	_____
	No history of any opiate use	13	_____
	Not checks or burglary (subject offense)	13	_____
B.	Age at subject offense times .6		_____
	21 is added for all persons		<u>21</u> _____
C.	Subtotal: A + B		_____ _____
D.	Aliases: -3 times number		_____
E.	Prior known incarcerations: -5 times number		_____ _____
F.	Subtotal: D + E		_____ _____
G.	Score: Subtract F from C		_____ _____

Rate on a Scale of 1-100.

Taken from Comptroller General's Report to Congress, State
County Probation Systems in Crisis (Wash., 1987) p. 133.

EXHIBIT II-E

PROBATION EVALUATION SCORE SHEET

Complete this form prior to the Probation Date so that it accompanies the Probation Papers which are presented to the Judge. If a person does not qualify in a particular item, a zero should be entered opposite that item in the score column.

NAME: J. T. S. CAUSE NO.: C -KJ DATE: 8-27-71
OFFENSE: BURGLARY

	WEIGHT	SCORE
A. PRIOR CRIMINAL HISTORY		
1. No prior arrest (other than present offense)-----	5	0
2. No arrest in past 5 years (other than present offense)-----	4	0
3. No felony convictions, felony probation or misdemeanor probation-----	4	0
4. No arrest for automobile theft-----	4	4
5. Present offense not for checks, burglary, robbery, theft, or DWI-----	3	0
6. No aliases or tatoos-----	3	0
7. No more than 2 prior arrests-----	4	0
8. Has not been to a juvenile training school-----	3	3
9. Has not had prior jail commitments-----	3	3
10. No assaultiveness in prior criminal history-----	3	0
11. First arrest did not occur prior to age 20-----	2	0
TOTAL: PRIOR CRIMINAL HISTORY-----	38	10
B. NARCOTICS, DRUGS AND ALCOHOL		
1. No history of opiate use (opium, codeine, morphine, heroin)-----	5	5
2. No history of heroin or cocaine use-----	5	5
3. No history of marijuana, amphetamines, demerol, LSD, or barbiturate use--	3	3
4. No history of alcohol involvement in this or prior arrests-----	4	0
TOTAL: NARCOTICS, DRUGS AND ALCOHOL-----	17	13
C. EMOTIONAL AND PHYSICAL		
1. No history of psychiatric or psychological disorders-----	3	0
2. No sex offense attributed to personality or emotional disorders-----	3	3
3. Sexual adjustment appears normal-----	2	2
4. Favorable physical condition (health)-----	2	2
5. Favorable physical appearance-----	1	1
6. Delinquent behavior not attributed to associates-----	4	0
7. Has favorable attitude toward probation and future-----	2	0
TOTAL: EMOTIONAL AND PHYSICAL-----	17	8
D. EMPLOYMENT AND EDUCATION		
1. Employed at present (if housewife give credit same as employed)-----	3	3
2. Has held present job six months or more-----	3	3
3. Has a vocational skill-----	2	0
4. Attending school, receiving a pension, social security, unemployment compensation or unemployed due to medical disability-----	2	0
5. Veteran with Honorable Discharge-----	1	0
6. Completed high school or has GED-----	2	0
7. Has a job commitment (give credit if employed)-----	1	1
8. If children involved, is suitable care arranged-----	2	0
9. Has a favorable attitude toward work-----	1	1
TOTAL: EMPLOYMENT AND EDUCATION-----	17	8
E. FAMILY TIES		
1. No family criminal record-----	4	0
2. Lives with spouse or family-----	2	2
3. Parents neither separated nor divorced-----	2	0
4. Supports spouse and children or self, if single-----	2	0
5. Marital stability-no divorces or separations (give credit if single)-----	1	0
TOTAL: FAMILY TIES-----	11	2
		TOTAL RATING:
		<u>41</u>
F. SCALE: Chance of successfully completing probation		
Circle the number you feel is the appropriate rating in this case		
0	5	10
15	20	25
30	35	40
45	50	55
60	65	70
75	80	85
90	95	100
Very Poor Poor Average Good Very Good		

FOR TRAINING PURPOSES ONLY! NAME OF RATER: Bill Wright

FOOTNOTES TO CHAPTER TWO

1. American Bar Association, Project on Standards for Criminal Justice, Standards Relating to Sentencing Alternatives and Procedures (N.Y., 1969), p. 1.
2. National Advisory Commission on Criminal Justice Standards and Goals, Courts (Washington, D.C., 1973), p. 109.
3. Robert Martinson, "In My Opinion," Corrections Magazine, II:6 (December, 1976), n.p..
4. United States Department of Justice, Law Enforcement Assistance Administration, "Census of State Correctional Facilities, 1974: Advance Report," Table I. Excerpted in the Joint Advisory Committee on Government Operations, Subcommittee on Corrections, Report with Recommendations (hereafter cited as Joint Committee on Government; Austin, 1977), p. 3.
5. Joint Committee on Government, p. 6.
6. Ibid.
7. Ibid, p. 22.
8. This figure is derived from a consensus of figures provided by probation chiefs in 1974 when asked to compute cost in their district(s) to adequately staff, train, and support a probation program that would provide thorough protection to the community. Most chiefs at that time felt that this would require triple the available fiscal resources, now approximately \$0.32 per day.
9. "Survey of Inmates in State and Federal Prisons," Corrections Magazine, III:1 (March, 1977), p. 4.
10. Joint Committee on Government, p. 5.
11. United States Department of Justice, National Prisoner Statistics, "Prisoners in State and Federal Prisons, 12/31/1975" (Washington, D.C., 1977), p. 16.
12. Federal Bureau of Investigation, Uniform Crime Reports for the United States, Crime in the United States: 1975, (Washington, D.C., 1976), p. 55.

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13. Texas Adult Probation Manual Task Force, Texas Adult Probation Manual (Texas Center for the Judiciary, Austin, 1975), p. I.2.
14. James V. Bennett, Federal Prisons, 1948: A Report of the Work of the Federal Bureau of Prisons (Washington, D.C., 1949), p. 3. As quoted in James Mabry, Charles Friel, et al, A Review of Pre-Release Programs, Criminal Justice Monograph, I:2 (Huntsville, 1969), p. 10.
15. Among the most stimulating and influential works of recent years encouraging a reexamination of the function and use of prison sentences are the following:
The American Friends Service Committee, Struggle for Justice (1971); Marvin Frankel, Criminal Sentences * (1973); Norval Morris, The Future of Imprisonment (1975); Andrew von Hirsch, Doing Justice: The Choice of Punishment (1976); and The Twentieth Century Fund Task Force on Criminal Sentencing, Fair and Certain Punishment (1976).
16. American Bar Association, Standards on Sentencing, pp. 48, 52-55.
17. Ibid, p. 202.
18. Division of Probation, Administrative Office of the United States Courts, The Presentence Investigation Report (Publication #102, Superintendent of Documents, U. S. Government Printing Office, 1965), p. 1.
19. Texas Adult Probation Manual, Exhibit I.
20. Robert Carter, "An Alternative Presentence Report Model for the Division of Probation and Parole" (Division of Research, Department of Institutions, State of Washington, 1970). p. 16 ff.
21. A. B. A., Standards on Sentencing, p. 72.
22. A. B. A., Standards Relating to Probation, Tentative Draft (1970), pp. 30-32.
23. See American Law Institute, Model Penal Code (1962), reproduced as Appendix B in A. B. A., Sentencing.
24. David Fogel, "...We are the Living Proof...": The Justice Model for Corrections (Cincinnati: Anderson, 1975), pp. 252-254.

25. See, for example, Leo Whinery, Thomas Nagy, Gregory Sather, and Kaye Fisher, Predictive Sentencing (Lexington: Heath, 1976).
26. Comptroller General of the United States, State and County Probation: Systems in Crisis, Report to Congress (Washington, D.C., 1976), pp. 52-61.
27. Ibid, p. 55.
28. A. B. A., Standards on Sentencing, p. 209.
29. Ibid, Standard 4.2, pp. 208-210.
30. Ibid, Standard 4.3, pp. 210-225.
31. Gottfredson, Don M., Jack M. Kress, and Leslie T. Wilkins, Sentencing Guidelines: Structuring Judicial Discretion, Final Report of the Feasibility Study (National Institute of Law Enforcement and Criminal Justice, United States Department of Justice, 1976), p. 3.
32. See note 15, above, for some of the major work undertaken on this thesis.
33. The Twentieth Century Fund Task Force on Criminal Sentencing, Fair and Certain Punishment (NY: McGraw, 1976), P.6.
34. Fogel, p. 184.
35. Gottfredson, Kress, and Wilkins: pp.xi-xxiv.
36. See Report, Corrections Magazine II:6 (December, 1976).
37. Judge Anthony Critelli, Fifth Judicial District of Iowa, in Gottfredson, Kress, and Wilkins, p. vii.
38. Norval Morris, "The Judge's Declining Role in the Criminal Justice System," reprinted from Law and Social Order (1972, Number 3), p. 380.
39. Ibid, p. 379.
40. Ibid, p. 373.
41. Gottfredson, Kress, and Wilkins, p. vii.

42. Ibid, p. xix.
43. A. B. A., Standards on Sentencing, pp. 43-47.
44. Ibid, p. 46.
45. Ibid.
46. Ibid, p. 44. Quoting Betts, "Jury Sentencing,"
2 N.P.P.A.J. 369, 370 (1956).
47. Morris "The Judge's Declining Role," p. 378.
48. Ibid.
49. Arlen Specter, speech before the National Conference
on Criminal Justice, quoted in A National Strategy to
Reduce Crime, National Advisory Commission on Criminal
Justice Standards & Goals (Washington, D.C.: 1973), p. 97.
0. Ibid.
51. Morris, p. 378.
52. Letter from Mr. Frank Lozito, Director, West Texas
Regional Adult Probation Department, of 11/24/1976.

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CHAPTER 3 CASE WORK, SUPERVISION AND SERVICES

- (1) SUPERVISION: FELONY AND MISDEMEANOR**
- (2) TRANSFER OF SUPERVISION**
- (3) VIOLATION PROCEDURES**
- (4) SPECIAL SERVICES**
- (5) CASE RECORDS**

SUMMARY OF RECOMMENDATIONS

- III.1 Following the court's disposition, an initial supervision interview should be conducted with the probationer within 24 hours. Probation officers should make clear that the conditions of probation are understood by the probationer, and that he has received a copy of the court-signed conditions.
- III.2 A program plan for each probationer should be developed with his help immediately; it should be recorded, and then reviewed regularly.
- III.3 Each department should differentiate supervision according to the needs of each probationer.
- (A) Probationers should be classified into categories of maximum (or special), medium, and minimum supervision.
- (B) All new probationers should receive immediate intensive supervision contingent upon classification into one of the above categories.
- (C) The probationer who has demonstrated an ability to adjust to community living and to fulfill all conditions of probation, and/or who is under consideration for early discharge should receive minimum supervision.
- III.4 Each department should have a sufficient number of staff to develop, implement and supervise the programs planned for all felony and misdemeanor probationers. Misdemeanor probation, in particular, should be made more meaningful.
- III.5 Statewide in-service training should help probation officers develop and improve casework techniques.
- III.6 Each department should develop and use criteria for discharging probationers who fulfill conditions of their probation before completion of their sentence.
- III.7 A standard, streamlined compact for transfer of probationers from one jurisdiction in Texas to another should be developed by the Texas Adult Probation Commission with the advice of probation officers and judges.
- (A) Standards should include both courtesy supervision and transfer of jurisdiction.
- (B) All probation fees should be devoted to the department undertaking active supervision.

- III.8 Each department should designate a professional staff member liaison for transfer of supervision of probationers.
- III.9 A probation officer should immediately investigate all alleged violations of the conditions of probation, and review these allegations with his or her supervisor.
- III.10 Each department should institute informal administrative adjustments to resolve minor infractions or technical violations of probation.
- III.11 Departments should develop written procedures governing arrest of probationers, formal prosecution and court notification of an alleged violation, prehearing and violation hearing.
- III.12 Each department should develop and manage community services to promote the dignity, responsibility and well-being of all probationers. (See also Chapter 6)
- III.13 Probation officers should note special services provided to a client in case records, and evaluate the effectiveness of referrals.
- III.14 Current written records for each probation case should be maintained by supervising staff.
- III.15 Each department should develop written administrative policies and procedures governing case record management. Each case record should contain cumulative information on all significant actions, decisions and services rendered.
- III.16 Information contained in case records should remain confidential, and department policies should be outlined to insure this.

Introduction

A major obstacle to effective community corrections for probation systems around the state is inadequate supervision and the failure to deliver services--both traceable to the insufficiency of money, manpower and training historically allotted to probation (see Volume 1, Chapter 3 of this report). Texas can and should look forward to probation systems that will, within the next ten years, approach the legislative standard of 75 cases per probation officer.¹ Leadership within this state must expect and provide for vital probation programs with realistic case loads allowing time to devote to individual problems. This chapter supports recommendations concerning this and the mechanics by which to improve supervision and delivery of services, and to make the best use of all resources in the department and the community.

The probation system fails in its obligations to the community whenever a probation officer does not take an interest in the people with whom he works, whether this be due to insensitivity to their needs, or to an overwhelming task faced without strong administrative support and adequate resources. Conditions of probation must be properly enforced and sanctions invoked for serious violations of these conditions in order that the methods and aims of community corrections may be endorsed and actively supported by the community itself. At the same time that more money and

manpower are provided for probation, administrators and workers must develop the know how to manage case loads so that those probationers receiving time and attention are the ones most needing them.

Aims

Probation programs go about their business through surveillance and supervision of offender activities, through providing individual attention structured to motivate offenders, and through helping to provide needed remedial services. The aims of supervision are to assure the community that each offender fulfills his contract with the court of justice, and further, to take action when he does not. A probationer is asked to exercise all the responsibilities of a citizen. The aims of casework and remedial services are to help the individual who has committed a crime to help himself. Probation programs should be structured so that convicted felons and misdemeanants who genuinely desire to accept the consequences of their actions receive individual attention and are able to profit by genuine opportunities afforded them.

(1)

Supervision: Felony and Misdemeanor

RECOMMENDATIONS

- III.1 Following the court's disposition, an initial supervision interview should be conducted with the probationer within 24 hours. Probation officers should make clear that the conditions of probation are understood by the probationer, and that he has received a copy of the court-signed conditions.
- III.2 A program plan for each probationer should be developed with his help immediately; it should be recorded, and then reviewed regularly.
- III.3 Each department should differentiate supervision according to the needs of each probationer.
- (A) Probationers should be classified into categories of maximum (or special), medium, and minimum supervision.
- (B) All new probationers should receive immediate intensive supervision contingent upon classification into one of the above categories.
- (C) The probationer who has demonstrated an ability to adjust to community living and to fulfill all conditions of probation, and/or who is under consideration for early discharge should receive minimum supervision.
- III.4 Each department should have a sufficient number of staff to develop, implement and supervise the programs planned for all felony and misdemeanor probationers. Misdemeanor probation, in particular, should be made more meaningful.
- III.5 Statewide in-service training should help probation officers develop and improve casework techniques.
- III.6 Each department should develop and use criteria for discharging probationers who fulfill conditions of their probation before completion of their sentence.

The need to establish contact promptly after sentencing was mentioned already in Chapter 2. More often than not, the convicted defendant has understood little of the courtroom process. No unnecessary delay should exist before a probation officer is able to explain to him or her the probation sanction, its meaning, consequences and requirements. The court clerk has legal responsibility to provide each sentenced and probated defendant with a copy of probation conditions set by the judge or jury. The probation officer has a professional responsibility to see that this has been done and to explain each condition in language that can be clearly understood.

A delay between this final court appearance and contact with the probation officer tends to reduce the significance of the sentence. The stress, anxiety and uncertainty which characterize defendants awaiting sentence are released once sentence is pronounced. The probation officer needs to follow through before the offender simply finds himself free on the street.

Any relationship established between probation officer and defendant in the trial stage changes after sentencing. Before sentencing the defendant is inclined to do and say what is expected of him. Once he has gained respite from incarceration the probationer must face, on more realistic terms, what will best keep him or her from repetition of crime. A program plan should be devised with full participation of each probationer. The latter must under-

stand the reasoning behind any plan for his behavior and "correction." Responsibility for making decisions and determining his own future in this way cannot be shifted to someone else. The probationer works harder at a program plan if his pride can be vested in its success.

The probation officer explores individual needs and raises questions about each individual's future. After agreeing upon long-range goals, then clear, short-range objectives that are reasonably within reach of the probationer are worked out. Once a program plan is developed cooperatively, it should be written out. The probationer should place his name to it. Specified goals and objectives are then reviewed periodically, and revised as they are either met or found to be inappropriate. A current copy of the program plan should be maintained in case files.

Frequency of reporting is set out in the official copy of court-ordered probation conditions. It is important, therefore, that a level of supervision-needs be indicated in PSI reports. Regulation of case loads is possible only through classification of probationers according to their supervision needs.

Classification has been recognized around the country for many years as a necessary and basic management tool for probation workers. Still, however, most departments in Texas evidence little or no use of methodical classification of cases. And, to our knowledge, only one--at best, two

departments have yet organized classification and statistical record keeping so as to render information that will help evaluate and improve policy decisions.

A variety of classification schemes are used by probation officers making sentencing recommendations for PSI reports. These schemes predict the probationer's likelihood of success (and corresponding need for supervision) by assigning quantifiable values to specific criteria which have proven in the past to affect probation success: offense history, demographic information, substance use, and so forth. Several of these models were discussed in Chapter 2, Section 2 (p. 63). Probationers receiving lower scores by these criteria are usually singled out for more intensive supervision than are those receiving high scores. The West Texas Regional Probation Department is experimenting with a prediction model that has been coordinated with district court sentencing policies, and will be tracked and analyzed with the help of a computerized information system.

Several factors deter departments from adopting methodical prediction classification schemes to shape sentencing and administrative decisions.² First, practitioners are dubious about the validity of any one model for all types of offenders, and across all different jurisdictions. The 1976 GAO study of probation practices, however, validated three models in three distinct jurisdictions around the country, two of them modified versions of California's successful "Base Expectancy"

classification system.³ Further nationwide research in this area should answer this question. Secondly, there is question about predictive success: do probationers who are classified and handled differently actually recidivate less frequently than probationers who are indiscriminately supervised? Again, research findings tend to be qualified, but hold out promise for further experimentation. Finally, adoption of classification schemes seems to imply the need for fairly sophisticated and rigorous statistical methods and analysis--an investment most probation administrators have not the clerical and professional staff to make.

Departments do need better staffing to make classification efforts possible for felons and misdemeanants alike. Departments whose resources enable them to undertake research in this area are encouraged to do so, with the help of universities, statewide training groups and a statewide service center.

Whether criteria determining the frequency of reporting are or are not standardized and quantified for probation officers, they should take into account the following. First, the maturity of the offender's response to the seriousness of his crime and to the sanction of probation will dictate the need to counsel him about his values and attitudes. The second criteria affecting reporting needs concern personal stability. The probationer who is under unusual stress from a family situation, and the probationer who has no family support or stakes in the community require special attention.

So, too, the probationer who is either unemployed or underemployed. A probationer with serious employment handicaps, who needs remedial help, may also require more frequent supervision until arrangements have been made to meet those needs. Youth can aggravate any of these factors. Finally, someone with a history of alcohol or drug dependency needs more intensive attention throughout his probation career.

Each department should provide for at least three levels or degrees of supervision for both misdemeanants and felons. Maximum or special supervision is appropriate for all new probationers, and for offenders determined to pose a potential risk of further criminal activity. Weekly personal contacts, at least, should characterize this level of supervision; special situations will call for even more frequent contact. Some of these contacts should occur in the home, so that the probation officer is familiar with the circumstances in which the probationer is functioning. Any probationer whose employment instability is chronic should be placed in an intensive supervision category and asked to report at least once a week (daily if pressure is needed for motivation). In situations such as this, contacts between probation officer and the probationer should make clear exactly what is expected of the probationer.

A majority of probationers, however, require regular contact only on a monthly basis ("medium supervision"). Occasional extra supervision might be needed if a volunteer

is working with the probationer or if the latter is receiving outside services. Monthly reporting should be regularly scheduled keeping in mind the offender's responsibility to an employer or to school.

Contacts should be used to gauge the probationer's fulfillment of all court ordered conditions of probation. The probation officer should see that all court required payments are made and that proper records are kept of that fact. Employment stability, fulfillment of any performance contracts, developing stress in the offender's personal and family situation, financial or health problems and future plans are important indicators of the need for any special attention. With this information in hand a probation officer should revise a probationer's program plan periodically, as needed.

Any probationer who has demonstrated the ability to adjust to community living through ability to hold a job, fulfillment of all obligations to the court, and personal stability should be relegated to "minimum supervision" status. This status permits reporting on a regular basis by mail. The probationer has by and large fulfilled the program plan outlined in the initial stages of supervision. A copy of the monthly report form which is presently used in the 51st, 119th and 198th judicial districts is appended to this chapter as Exhibit III-A. Fees and other assessments are enclosed with the report form and paid by mail. A probationer who is faithful in mailing reports and who meets statutory requirements for early termination should be considered for prompt discharge.

A greater use of minimum supervision seems to be called for around the state. Some rural areas have been able to handle as much as one-third their total case load in this fashion, meeting with very few problems or failures. The major burden of supervision is shifted from the probation officer to clerical and paraprofessional staff who keep up with the paperwork, and inform officers when reports are overdue.

Probation administrators should encourage workers to expedite the graduation of cases from one level of supervision to the next. Movement of cases allows the probation worker to turn his attention to new, more pressing cases. Despite the natural instinct to hang on to stable clients, probation officers should resist this tendency. Administratively, this procedure involves only a brief return to court with the probationer, with modified probation conditions prepared for the judge's signature. Procedures and forms for modifying probation conditions may be found in the Texas Adult Probation Manual.

Any time a probationer fails to meet the requirements set for a particular level of supervision, he can and probably should be moved back to more intensive supervision either for a set period, or else indefinitely. A probationer on minimum supervision who does not mail a monthly report, or a probationer on medium supervision who does not appear in person should be reverted to more intensive supervision unless unusual and mitigating circumstances explain this behavior.

Another case management procedure whose importance has increased, and will continue to increase with the influx of offenders through the courts and the probation system, is early discharge. The law allows early termination or discharge from sentence after one-third of the original probationary period, or two years, whichever is lesser. Probation chiefs were polled about court practices in their jurisdictions; only ten percent stated that their district court does not grant early termination. Forty-one percent, however, stated that their county court does not do so. This may reflect the shorter range of sentences possible for misdemeanor offenses, as well as the bulk of cases heard in these lower courts.

Early discharge is essential in order to make room on crowded case loads for new cases deserving attention. It can also usefully motivate probationers to succeed. Any probationer who performs well under minimum supervision and meets the statutory requirement should be considered for termination unless: 1) he or she poses a continuing probable risk to the community; 2) all specified conditions of probation have not been reasonably fulfilled; or 3) reduction or termination of sentence would tend to depreciate the seriousness of the crime or the authority of the court. Probation departments should develop policies regarding satisfactory qualification for discharge within which to make recommendations to both the district and county courts, in order to take greater

advantage of early discharge procedures. A sample form for this procedure is found in the Texas Adult Probation Manual (Exhibit 41).

An important question with which probation planners, administrators, and even legislators must contend is that of "proper case load size:" what is the maximum number of felony and/or misdemeanor probationers that can safely and successfully be supervised by one officer? Until roughly ten years ago the literature was given to recommending a standard or ideal of somewhere around 50 cases.⁴ This number, first suggested in 1917 and adopted by the American Prison Association in 1946, was revised in 1959 (the ACA Manual of Correctional Standards) to be based on work units as opposed to case units. One workload unit was assigned for each completed presentence investigation, and five workload units were assigned for each presentence investigation completed and written in a month.

These standards were developed and promoted with a view to allowing sufficient time for a traditional casework approach to each offender's needs. A low case load was assumed to promote more effective performance. Certainly this is the case within some not yet clearly defined limits. It is now recognized that case load definitions need to be more flexible than such standards, in order to reflect a greater range of correctional approaches, a shift in

emphasis towards community resource development and brokerage, and different case management schemes.

The Master Plan survey arrived at a statewide average case load (misdemeanor and felony) of 210, using the number of all professional staff except chiefs of probation (430 total) as a fair indicator of professional workers carrying case loads. In practice chiefs, too, carry case loads: a total of 17,000 probationers are supervised by fewer than 115 chiefs, who thus carry an average of at least 148 cases. Some probation chiefs in rural areas carry as many as 500 cases. Harris County probation officers carry on the average 475 cases, while in Tarrant County the average is 357; in Bexar County it is 328; and in Dallas it is 209. These figures are, unfortunately, representative for most departments around the state.

With case loads such as these, individual attention and special services are possible only for the most exceptional cases, if then. There is an upper limit (probably somewhere around 400 cases) beyond which even the paperwork for minimum supervision is not possible to the most efficient probation worker. Every department in this state should be able to effectively supervise and serve an offender with special needs; every department should be equipped to provide maximum/special supervision, as well as monthly personal contacts for medium supervision. Clearly, addition of new staff to reach a level of performance that can be described as something better than functional is warranted.

Research indicates, however, that merely increasing a probation officer's availability or number of contacts, through smaller case loads, will not alone reduce the recidivism of probationers (or parolees). The National Advisory Commission on Criminal Justice Standards and Goals has the following to say about the case load standard:

The caseload standard provides an excuse for officers with large caseloads to explain why they cannot supervise probationers effectively. It also is a valuable reference point at budget time. Probation agencies have been known to attempt to increase their staff and reduce the size of the caseload without making any effort to define what needs to be done and what tasks must be performed. Caseload reduction has become an end unto itself.

When caseloads alone have been reduced, results have been disappointing. In some cases, an increase in probation violations resulted, undoubtedly due to increased surveillance or overreaction of well-meaning probation officers. Some gains were made when staff members were given special training in case management, but this appears to be the exception. The comment has been made that with caseload reduction, probation agencies have been unable to teach staff what to do with the additional time available.⁵

The relationship between case load size and recidivism has been researched extensively, although not yet conclusively. (See an account of all published research on this problem as of 1973 prepared by the National Center for Juvenile Justice, M. G. Neithercutt and D. M. Gottfredson, Case Load Size Variation and Difference in Probation/Parole Performance, 37 pages). The conclusions reached for the experimental San Francisco Project (using intensive supervision techniques) may summarize most cogently the

trend in most studies of this problem, Evaluation found that;

...any number proffered as an ideal case load size (fifty or otherwise) is meaningless without systematic case classification of an empirical derivation and constitution of case loads taking into account offender, officer and treatment contemplated.⁶

A similar study, conducted by the U. S. Probation Office, Northern District of California, followed results for four levels of case load supervision. "Intensive" case loads were assigned one presentence investigation and 20 cases supervised per month; an "ideal" case load consisted of two PSI's and 40 cases supervised per month; a "regular" case load comprised eight PSI's and between 80 and 100 cases supervised per month; and "minimum" case loads, requiring only written contact and no PSI's, comprised as many as 350 cases. Assignment to these case loads were random during the first half of the project and predicated on four distinct factors during the second half. The only difference in outcome discovered among these four case loads was that intensive supervision cases "were" subject to far more technical violations than those in any other case loads." Other studies indicate a range of factors more significant in determining recidivism than mere case load size (for instance, revocation policies and behavior of probation officers).⁸

Given these equivocal research findings, the Master Plan makes no recommendations to probation departments in Texas regarding a single "standard" or "ideal" case load size. It is recommended instead that workloads be shaped and regulated

according to supervision levels, and that they match offender type, services to be offered, and staff. A workload concept is the only one flexible enough to gauge and control case assignments for all situations to be found in Texas departments. Many departments manage case assignments so that all probation officers carry cases at all three supervision levels (maximum, medium and minimum); this allows continuous supervision by one officer as a probationer graduates from one level to the next. Other departments organize teams of probation officers, paraprofessionals, and volunteers. Most departments do not separate their court services and PSI functions, so that all probation officers take on these duties in addition to supervision. Variations in assignments and department structures make it difficult to define statewide standards and goals for local departments.

Some gauges may be offered here, however. For those departments where a sufficient number of staff permits division of case duties, an officer supervising only maximum level cases (one contact weekly, minimum) should not carry over 25 cases. This recommendation allows approximately one hour weekly per case for direct contact with remaining time divided between travel, record keeping, resource work, and volunteer supervision. (The recommendation conforms with an estimate provided by probation chiefs for the Master Plan survey, suggesting that the average weekly time spent on supervision by probation officers is roughly 24 hours).

Note that presentence investigations and preparation of PSI reports are not figured into this scheme; addition of this duty should be accompanied by a corresponding reduction in case load size.

A case load comprising probationers exclusively receiving medium, monthly supervision should never exceed 100. With a case load of 100, 25 probationers may, hypothetically at least, be seen for an average of one hour each week. Time allotted to all other functions is approximately the same as for intensive case loads, since presumably most of these probationers require fewer auxiliary services. Finally, any specialized minimum supervision case load should be able to carry anywhere from 175 - 400 cases (depending upon assignment of other responsibilities).

Presentence investigation functions are time consuming and are usually assigned a weight of five times that assigned to regular case work. The actual amount of time expended in investigation and preparation of the report varies. One time and motion study of federal probation and parole officers revealed that the average PSI and report consumed almost thirteen times as much time as was spent on one supervision case.⁹ At the other extreme, PSI's for lesser offenses and for misdemeanor courts might not warrant even a relative weight of five; workers in pretrial release programs are by and large able to complete and verify abbreviated investigations in two hours or less.¹⁰

Local formulation of workload standards should be based upon staff time and motion studies that actually track time allotted in the field to specific tasks. No such studies were undertaken by the Master Plan Project. Probation administrators should have officers record their time over a period of several months, and then analyze the results.

Probation administrators were asked by the Master Plan survey to estimate time spent by their probation workers on routine duties, and found that 45% of probation officer time is spent in "direct case supervision." The profile which emerged from their responses is shown here:

<u>DUTIES</u>	P.O. HOURS (Mean Average)	
	<u>Rural Areas</u>	<u>Urban Areas</u>
Direct case supervision	23	24
Travel	7	6
Records keeping (recording)	8	7
Volunteer supervision/coordination	5	3
Resource work	5	4
Other	5	5
	<hr/>	<hr/>
TOTAL HOURS PER WEEK	53	49

Based in part upon these estimates we have constructed formulas which might serve as models to local departments in setting their own standards for work units. These models describe (I) a workload consisting of all presentence investigation work; (II) a mixed workload involving maximum and medium supervision as well as PSI work; and (III) a workload in which all probationers are maintained at a level of medium

supervision. The models, given below, hypothesize that approximately 60% of an officer's time is spent in direct supervision and travel. They suppose a month's work of 180 hours, or 45 hours each week.

I. Workload - presentence investigations and court services only:

<u>Monthly Activity</u>		<u>Monthly Time Expended</u>
20 investigations per month at 5 hours each (average-- excludes diagnostic work)	=	100 hours
Court appearances	=	64 hours
Travel	=	16 hours
		<hr/> 180 hours

II. Workload - all cases under medium supervision:

<u>Monthly Activity</u>		<u>Monthly Time Expended</u>
100 cases at 1 hour each	=	100 hours
Record keeping and office work (6 hours per week)	=	24 hours
Resource work (6 hours per week)	=	24 hours
Violation investigations and court appearances (5 hours per week)	=	20 hours
Travel	=	12 hours
		<hr/> 180 hours

III. Workload - mixed responsibilities:

<u>Monthly Activity</u>		<u>Monthly Time Expended</u>
6 PSI's at 5 hours each (average)	=	30 hours
20 cases under medium supervision at 1 hour each	=	20 hours
10 cases under maximum supervision at 5 hours each	=	50 hours
<hr/>		<hr/>
(38 cases)		(100 hours)
Record keeping and office work (6 hours per week)	=	24 hours
Resource work (6 hours per week)	=	24 hours
Court appearances (5 hours per week)	=	24 hours
Travel	=	12 hours
		<hr/>
		180 hours

Models constructed along similar lines, based upon recorded field experience, will help administrators allocate staff time more efficiently and effectively. (See also p.323.)

It should be observed that no distinction is drawn here between misdemeanor and felony probationers. Whether or not to provide special case loads exclusively for misdemeanants is a question with no obvious answer. Again, it would seem that proper classification of offenders, supervision at a range of levels, and matching of clients' needs and staff are more important.

There are several reasons why departments might wish to separate services and supervision for misdemeanants from those for felons. In the first place, two separate statutes set out different legal procedures to be followed. County and district courts are governed by differing rules and to some extent, differing objectives. Probation officers must create working relationships with county and district judges on different footing. There would be some advantage to assignment of special personnel to county courts hearing criminal cases where departments are large enough to make this possible. Secondly, the types of offenses constituting misdemeanors have their roots in differing sets of needs and these needs have implications for case load management. For example, at least one-third of all misdemeanor offenses are Driving While Intoxicated or Driving Under the Influence of Drugs. These cases call for special handling and special services.

Yet another reason for separating felony and misdemeanor supervision is the tendency for probation officers to assign their misdemeanants a back seat. Probation officers are usually given a shorter period of sentence in which to work with misdemeanants than they are given for felony probationers: it is all the more important, then, that they use this time well. Misdemeanor probation often offers an earlier opportunity to catch a youthful offender who is drifting toward more serious criminal activity.

The chief arguments against specialization are practical ones. First, there is size. The limited case loads of small, rural departments do not warrant separation of county and district court services and supervision. The range of geographical territory they must cover argues against any duplication of effort. Secondly, from an administrative point of view, a misdemeanor case worker is likely to be asked to carry too many cases to make supervision and services more meaningful for those probationers. We would suggest that work units for misdemeanor probationers should be assigned a value of at least three-quarters the value assigned comparable work units for felony probationers.

Generally, then, any administrative arrangement that will serve to improve services and supervision for misdemeanants, and thus make the sanctions of the lower courts more meaningful, is favored. Historically, the administration of misdemeanor probation in Texas has assigned it much lower priority than it deserves. Until 1965 Texas had no misdemeanor probation law. Since that time services have developed in most counties within district probation departments. In a few areas the county judge has appointed special probation officers to administer services to his court only, under his own supervision as opposed to that of the district judge. This administrative autonomy has been retained in 9 counties, even though budgeting is usually not distinct from that for the district probation office. In 8 counties the county judge supervises any misdemeanor probationers required to report

himself, and 13 other counties have no probation officer at all, misdemeanor or felony (See Volume I, pp. 124-126). In many areas, defendants who are probated are not required to report. There are 8,000 such in Dallas County alone.

Another indication that probation's potential for the lower courts has been neglected is their meager use of presentence investigations to inform sentencing decisions. Sixty-eight percent of the county judges responding to our question whether the probation department is used "to investigate a defendant's background prior to sentencing" indicate that they never do so, or else do so in fewer than 10% of the cases they decide (Q3, # 12).

Despite these conditions, it is nonetheless true that:

One of the requisites...for ending the cycle of futility that now characterizes the handling of misdemeanor offenders is the substantial improvement of services and alternative dispositions used for persons not committed to jail. ¹¹

As a deterrent to crime, the work of the lower courts is more important than that of any other institution, with the exception of the police force. Probation's administration must recognize this importance.

A large proportion of misdemeanor offenders are convicted for Driving While Intoxicated or Driving Under the Influence of Drugs. The President's Commission on Law Enforcement and the Administration of Justice in 1967 estimated that one out of three arrests in the nation were for public intoxication.¹² Furthermore, the U. S. Department

of Transportation states that alcohol is involved in at least half of all fatal traffic accidents, one-third of all injury accidents and about 15% of all property-damage-only accidents.¹³ In 1975, the Department of Public Safety made 38,231 DWI arrests, and over 12,000 drivers licenses in this state were suspended for DWI.¹⁴ Clearly, the social costs of drinking and driving are serious. Yet workers in the field note that probationary programs for DWI/DUID defendants are just now becoming firmly established. Surveys undertaken for the Alcohol Safety Action Projects (ASAP) found that, while the legal concept of probation was common, few presentence investigations take place, and offenders are rarely referred to education and treatment.¹⁵ This is attributed to a lack of personnel, funds, and programs. Although, with the help of programs such as ASAP, probation services have been extended in many communities, they are underdeveloped in many others.

The prescriptive Guide to Improved Handling of Misdemeanant Offenders (published in 1974 by LEAA, Tully McCrea & Don Gottfredson, authors) provides a useful overview and set of recommendations to alleviate problems connected with the administration of justice and with correctional programs associated with the lower, misdemeanor courts. It recommends nationwide improvements in three directions: an approximate tripling of the number of misdemeanor probation officers, a substantial upgrading in the quality of staff

employed in professional roles; and finally, major changes in the functional organization of probation agencies so that a full range of services may be delivered.¹⁶ Their description of a good probation service for misdemeanants conforms exactly with that outlined by other standards and goals for felons. Throughout this Plan our recommendations apply equally to misdemeanor and felony probation, unless otherwise specified.

Yet another issue which many adult probation departments face in Texas is their combined responsibility for adult and juvenile services. Very few of these departments argue in favor of this combination on any grounds other than the economics of combined administration. However, three circumstances favor the separation of actual supervision. First, juveniles tend to receive a greater share of attention than do adult offenders. Secondly, juveniles require a different approach, different legal procedures and have quite distinctive treatment needs. Finally, there is some reason to think that a juvenile placed on probation should not graduate as a young adult to probation supervised by the same officer who has failed with him as a juvenile. Adult and juvenile probation should both be adequately funded so that adult and juvenile probation supervision may be separated in all jurisdictions.

The substance of probation officers' daily work with probationers is not treated here, but should be made the topic for in-service training. Needs in this area should be assessed on a regular, local basis. Suffice it to note that a probation officer cannot and should not be all things to

all probationers. His role is not that of brother, father, priest or shrink. A probation officer can, however, be the agent for a corrective plan. He can be a resource to the probationer, either for valuable information or for clearer thinking about values and actions. And, he must be an officer of the court and an agent for enforcing the court's sanctions.

To do these things the probation officer must be given a reasonable task. This involves sufficient administrative support and training to develop and implement the program plans which are expected of him. It also involves well-defined criteria and procedures by which to reach decisions and take action upon them. He should be provided paraprofessional and clerical staff to ease the burden of routine tasks involved in the execution of his duties. Finally, he should be given the training and discretion to take advantage of, and even generate, remedial resources in the community needed by his probationers. More is said about these issues in the succeeding chapters of this Plan.

Transfer of Supervision

RECOMMENDATIONS

III.7 A standard, streamlined compact for transfer of probationers from one jurisdiction in Texas to another should be developed by the Texas Adult Probation Commission with the advice of probation officers and judges,

(A) Standards should include both courtesy supervision and transfer of jurisdiction.

(B) All probation fees should be devoted to the department undertaking active supervision.

III.8 Each department should designate a professional staff member liaison for transfer of supervision of probationers.

Local control of probation systems, and the previous lack of a central coordinating body and defined professional standards by which to operate, have led to vast inconsistencies around the state in policies and practices. When probation systems must interface and cooperate with one another these inconsistencies impede their effectiveness. One example of this may be seen in the transfer of probationers from one jurisdiction in Texas to another. Each court and probation department handles this procedure in a different way. The lack of established statewide policies and procedures for courtesy supervision and transfer have created unnecessary headaches for administrators and have occasioned the loss of probationers from any form of effective supervision. A standard, streamlined compact for the effective transfer of probationers should be developed immediately and adopted by all probation departments. This will link individual probation

departments more effectively into a statewide community-based corrective system. The practice of intrastate jurisdictional transfer is clearly endorsed by a majority of courts and probation departments, according to the Master Plan survey (Volume 1, Q1, #48). Where a probationer does not live within the jurisdiction in which he was convicted, jurisdiction over his probation should not be retained there. A standard system for intrastate jurisdiction transfer will simplify paperwork, reduce confusion, save time and money, and keep probationers alert to probation conditions.

It is additionally recommended that any probation fee assessed should be the prerogative of the department actually supervising. This arrangement simplifies accounting and administrative handling of fees, and is more just to the department doing the work.

A professional staff person in each department should be designated liaison to handle all transfers of supervision; a statewide list might be maintained for the convenience of all departments. Each department should develop its own transfer policy, leaving latitude to individual probation officers in deciding whether or not to allow the transfer. Part of the transfer process should have transferring and receiving officers verify a program plan for the probationer.

Violation Procedures

RECOMMENDATIONS

- III.9 A probation officer should immediately investigate all alleged violations of the conditions of probation, and review these allegations with his or her supervisor.
- III.10 Each department should institute informal administrative adjustments to resolve minor infractions or technical violations of probation.
- III.11 Departments should develop written procedures governing arrest of probationers, formal prosecution and court notification of an alleged violation, prehearing and violation hearing.

For the probation sanction to have meaning, there must be enforcement of its provisions. This is most forcefully expressed in LEAA's prescriptive Guide to the Improved Handling of Misdemeanor Offenders:

Agencies which provide probation service in name only, without the elements of assistance and control that are an integral part of the correctional process, are deceiving the public. They lull the public, and even the court, into a sense of security that has no basis in fact.¹⁷

Violation of the court-ordered conditions of probation should not occur without knowledge and some form of action on the part of the probation officer. Clearly, keeping track of probationers' activities requires reasonable case loads. It likewise requires the exercise of discretion in deciding how to deal with minor infractions and with major violations.

As for minor technical violations, all probation officers must be prepared to exercise discretion and imagination in dealing with each incident. It is suggested

that each department institute informal administrative adjustment procedures and policies so that probation officers do not react on the spur of the moment without guidance. Clear policies in this area prepare the probation officer to work out his own approach to each situation with confidence.

Alleged violations should, however, be investigated before any serious consequences are felt. In particular if revocation is a possibility, the allegation should be thoroughly investigated and sufficient evidence should be accumulated to support each allegation in a court hearing. The probation officer should review the investigation's findings with the supervisor to weigh their strength and to decide whether court action or a different corrective approach is warranted. Some departments call formal administrative hearings prior to deciding to pursue revocation proceedings, and find them useful in calling the probationer to account for his actions and in deciding how to proceed with an individual.

Procedures governing arrest and formal charge of probationers should be clear to all probation officers. Some departments use a violation report to notify the prosecution and court of infractions; others prepare a motion to revoke for the prosecutor's signature. The ABA Standards Relating to Probation suggest that a warrant for arrest should be based on probable cause that a violation has occurred, and that warrantless arrest should be permitted.

only when the violation involves another crime and when the minimal standards for arrests without a warrant have otherwise been met (Standard 5.2). The National Advisory Commission on Criminal Justice Standards and Goals, however, recommends the "prompt confinement of probationers who exhibit behavior that is a serious threat to themselves and others." A preliminary hearing is required following detention.¹⁸ Whichever policy is followed, it must be clearly defined. Further, the probation officer may be consulted by the prosecuting and/or defense lawyers about a recommendation in case of a serious infraction: again, a policy should be available to help dictate the probation officer's response.

The ABA standard describing modification of a sentence such as probation is reproduced on the following page.

Standard 6.4 Modification of sentence: sentence not involving confinement or sentence to partial confinement.

(a) The sentencing court should be authorized to terminate at any time continued supervision or the power to revoke either a sentence not involving confinement or a sentence involving partial confinement. The court should also be authorized to lessen the conditions on which such sentences were imposed at any time, and similarly to shorten the time during which the power to revoke will exist.

(b) The court should be authorized to revoke a sentence not involving confinement or a sentence to partial confinement upon the violation of specified conditions or to increase the conditions under which such a sentence will be permitted to continue in effect. The sentencing alternatives which should be available upon a revocation should be the same as were available at the time of initial sentencing. Specifically, such alternatives should include the imposition of a fine or the imposition of a sentence to partial or total confinement.

(c) The court should not impose a sentence of total confinement upon revocation unless:

(i) the defendant has been convicted of another crime. The sentence in such a case should respect the limitations on consecutive sentences expressed in section 3.4; or

(ii) the defendant's conduct indicates that it is likely that he will commit another crime if he is not imprisoned; or

(iii) such a sentence is essential to vindicate the authority of the court.

If the revocation of a sentence to partial confinement results in a sentence to total confinement, credit should be given for all time spent in custody during the sentence to partial confinement.

ABA Standards Relating to Sentencing Alternatives and Procedures,
(N.Y., 1968), pp. 282.4.

Special Services

RECOMMENDATIONS

- III.12 Each department should develop and manage community services to promote the dignity, responsibility and well-being of all probationers.
- III.13 Probation officers should note special services provided to a client in case records, and evaluate the effectiveness of referrals.

A full consideration of the relationship between probation officer, probationer and the community will be reserved for Chapter 6, "Community-Based Programs, Resources and Public Education." This section will discuss the trend in professional thinking away from a social "case" work, therapeutic approach, towards a more limited, realistic, but also more flexible concept of probation work. The National Advisory Commission on Criminal Justice Standards and Goals in 1973 criticized and documented probation's overemphasis on a casework theory which relies heavily on diagnosis, treatment, therapy and other medically derived concepts.¹⁹ The casework approach for probation has incurred criticism from all sides--judges, correctional thinkers, law enforcement, and the public at large.

A more balanced concept of probation work has evolved which asks the probation officer not only to provide meaningful personal attention in resolution of the probationer's values and in planning his future, but also to provide encouragement for the probationer to use whatever resources and services are offered elsewhere in the community. This concept calls

for a definition of services that should be provided directly by the department and services that should be met by other social institutions. The NAC suggests that services to be provided to probationers directly through the probation system should:

- (1) Relate to the reasons the offender was brought into the probation system.
- (2) Help him adjust to his status as a probationer.
- (3) Provide information and facilitate referrals to needed community resources.
- (4) Help create conditions permitting readjustment and integration into the community as an independent individual through full utilization of all available resources.²⁰

The phrase "service brokerage" has been adopted by the professional language. This activity involves helping the probationer to assess his personal needs and then counseling him about the advantages and disadvantages of various avenues open to meet those needs.²¹ Clearly, this function is more meaningful where a range of options is available in the community. In some rural areas the probation officer alone may be able to undertake special services such as counseling or looking for jobs and housing.

This Master Plan does not attempt to spell out services that a probation system should provide and those that should remain the exclusive domain of other agencies. Each department should do this for itself. The following steps were

outlined by the NAC for providing an effective system for service delivery to all probationers:

- (1) Develop a goal-oriented service delivery system.
- (2) Identify service needs of probationers systematically and periodically, and specify measurable objectives based on priorities and needs assessment.
- (3) Differentiate between those services that the probation system should provide and those that should be provided by other resources.
- (4) Organize the system to deliver services, including purchase of services for probationers, and organize the staff around workloads.
- (5) Provide services to misdemeanants.²²

Departments might wish to develop a checklist by which to conduct their own needs assessment for special services. This checklist could also be used by probation officers to assess whether they consider this range of services in developing individual program plans. Documentation of strong needs in any one of these areas should be followed by an attempt to generate the particular service. Such a checklist is provided on the following page. See further, Chapter 6.

Exhibit III-B

Special Services Checklist

Which, if any, of the following are available as indicated and utilized as indicated within your jurisdiction?

SERVICE	AVAILABLE	OUTSIDE RESOURCE	WITHIN DEPARTMENT	UTILIZED	ESTIMATED CASES 19
Physical examination	Yes___No___	Yes___	Yes___	Yes___No___	_____
Psychological/psychiatric testing	Yes___No___	Yes___	Yes___	Yes___No___	_____
Aptitude testing	Yes___No___	Yes___	Yes___	Yes___No___	_____
Psychological/psychiatric evaluation	Yes___No___	Yes___	Yes___	Yes___No___	_____
Vocational rehabilitation/training	Yes___No___	Yes___	Yes___	Yes___No___	_____
Employment placement/counseling	Yes___No___	Yes___	Yes___	Yes___No___	_____
Residential treatment within 100 miles	Yes___No___	Yes___	Yes___	Yes___No___	_____
Halfway House	Yes___No___	Yes___	Yes___	Yes___No___	_____
Alcohol treatment	Yes___No___	Yes___	Yes___	Yes___No___	_____
Alcohol detoxification (medical)	Yes___No___	Yes___	Yes___	Yes___No___	_____
Drug treatment	Yes___No___	Yes___	Yes___	Yes___No___	_____
Drug detoxification (medical)	Yes___No___	Yes___	Yes___	Yes___No___	_____
Urine analysis	Yes___No___	Yes___	Yes___	Yes___No___	_____
Personal counseling	Yes___No___	Yes___	Yes___	Yes___No___	_____
Group counseling	Yes___No___	Yes___	Yes___	Yes___No___	_____
Special family counseling	Yes___No___	Yes___	Yes___	Yes___No___	_____
Alcohol abuse education	Yes___No___	Yes___	Yes___	Yes___No___	_____
Drug education	Yes___No___	Yes___	Yes___	Yes___No___	_____
Non-judicial probation	Yes___No___	Yes___	Yes___	Yes___No___	_____
Loan funds	Yes___No___	Yes___	Yes___	Yes___No___	_____
Transient housing	Yes___No___	Yes___	Yes___	Yes___No___	_____
Referral services	Yes___No___	Yes___	Yes___	Yes___No___	_____
Education & training	Yes___No___	Yes___	Yes___	Yes___No___	_____
Other*					

*Identify:

_____	Yes___	Yes___	Yes___	Yes___No___	_____
_____	Yes___	Yes___	Yes___	Yes___No___	_____
_____	Yes___	Yes___	Yes___	Yes___No___	_____

Case Records

RECOMMENDATIONS

- III.14 Current written records for each probation case should be maintained by supervising staff.
- III.15 Each department should develop written administrative policies and procedures governing case record management. Each case record should contain cumulative information on all significant actions, decisions and services rendered.
- III.16 Information contained in case records should remain confidential, and department policies should be outlined to insure this.

Current information about program plan, services provided and case contacts should be maintained in each case record. An ongoing chronological narrative of contacts and activities is a must to evaluate progress within a treatment plan. This account is equally necessary should another court appearance become necessary either to modify conditions or revoke probation--the probation officer must be prepared to be specific about contacts and their results under cross examination. In addition to chronological records, progress reports should be completed every three months. Together these records are useful in staffing cases and deciding whether to change supervision levels or strategies.

Staff supervisors should periodically monitor case records to see that they are kept up-to-date, and should evaluate staff performance in this area. Each file might contain a checklist at the front to keep track of records

it contains. Probation officers should additionally use a daily and a weekly statistical worksheet to keep track of their case activities. Suggestions regarding the type of information to be recorded may be found in the Texas Adult Probation Manual, pages VII-14 - VII-22. This rather considerable burden of case accounting and record keeping may be expedited by employing sufficient support and paraprofessional staff to keep up with the more routine details of paperwork.

The National Advisory Commission suggests that information in criminal justice files should be made available only to public agencies that have both a "need to know" and "right to know." They further state that:

Non-criminal-justice agencies should receive only those portions of the file directly related to the inquiry. Special precautions should be taken to control dissemination to non-criminal-justice agencies of information which might compromise personal privacy including strict enforcement of need to know and right to know criteria.²³

More is said about management of case records in Chapter 7, Section 5.

Exhibit III-A

DISTRICT PROBATION SYSTEM
FOR
COKE, CONCHO, IRION, SCHLEICHER, STERLING and TOM GREEN
RM B-7, TOM GREEN CO. COURTHOUSE, SAN ANGELO, TX. 76901
915 653-2385 ext. 251 or 655-8243

MONTHLY REPORTING AGREEMENT

CAUSE # _____

NAME: _____ PHONE: _____

ADDRESS: _____ () OLD () NEW () TEMPORARY

If new, when did you move? _____ If temporary, how long? _____

Has your marital status changed since last report? () Yes () No How? _____

Names & relationship of adult people living with you if changed from last report: _____

Has there been any serious illness or accidents to you or your family since your last report? _____

() Yes () No If yes, explain: _____

Has this affected your work or finances? () Yes () No How? _____

Are you employed? () Yes () No () Part-time () Full-time How long employed or unemployed if changed since last report? _____ Name & address of present employer: _____

Take home pay if changed since last report \$ _____ () Weekly () 2 weeks () Monthly

Explain any job changes, time missed during working hours, or changes in the kind of work you are doing. _____

Does your employer know you are on probation? () Yes () No If yes, does it seem to make any difference in your job? () Yes () No How? _____

Have you incurred debts or borrowed over \$100 since the last report? () Yes () No

If yes, explain: _____

Do you go to school? () Yes () No If yes, name of school: _____

If your probation officer should need to see you during the week, who would usually know where you are? NAME: _____ PHONE: _____

ADDRESS: _____

Have you obtained or changed autos since last report? () Yes () No

If yes: year: _____ color: _____ make: _____ model: _____ Lic. # _____

Have you been arrested or gotten any tickets since last report? () Yes () No Explain if yes: _____

Are there any questions or problems you would like to or think you should discuss with your probation officer? () Yes () No If yes, please indicate date and time of day best for you:

Date: _____ Time: _____ () at your home () at your job () at probation office

MAKE CHECK OR MONEY ORDER PAYABLE TO PROBATION DEPARTMENT. DO NOT SEND CASH.

Amount of payment enclosed: \$ _____ probation fees \$ _____ fines \$ _____ court costs \$ _____ restitution \$ _____ other Explain other: _____

signature _____

date _____

DO NOT WRITE BELOW THIS LINE

OFFICER COMMENTS

OFFICE DATA

Date & time received: _____

() By Mail () In Person

Clerk or Officer Initials: _____

3

FOOTNOTES TO CHAPTER THREE

1. Article 42.12, Section 10, Texas Code of Criminal Procedure.
2. Comptroller General of the U.S., State and County Probation Systems in Crisis. Report to Congress (Washington, D.C., 1976), Chapter 8.
3. Ibid. GAO researchers applied predictive criteria to 900 closed probation cases in three large and varied jurisdictions and found that they were transferable between locations, that they could be useful in probation decision making even though their predictive powers are by no means absolute, and that they could improve operations by guiding allocation of resources to offenders who most need help. The California models were developed for parolees, and modified slightly for use with probationers. They have been used in modified form within some federal probation jurisdictions. See also M. G. Neithercutt and D. M. Gottfredson, Case Load Size Variation and Difference in Probation/Parole Performance, (National Center for Juvenile Justice, 1973), p.22.
4. See Neithercutt and Gottfredson, Case Load Size Variation, p. 23, and National Advisory Commission, Report on Corrections, p. 318. Both account for the evolution of case load standards and discuss their fallacies.
5. NAC, Report on Corrections, (Washington, 1973), p.318.
6. James Robison, et. al., The San Francisco Project, Research Report No. 14 (Berkely: University of California School of Criminology, 1969), p. 8. Cited in Neithercutt, p. 9.
7. Neithercutt & Gottfredson, Case Load Size Variation, pp. 8-9.
8. Ibid, pp. 16-18.
9. Ibid, p.25
10. National Center for State Courts, An Evaluation of Policy Related Research on the Effectiveness of Pretrial Release Programs, (Denver, 1975), p. 66.
11. Tulley McCrea and Don M. Gottfredson, A Guide to Improved Handling of Misdemeanant Offenders, (Washington, D.C., 1974), p. 17.

12. President's Commission on Law Enforcement and the Administration of Justice Report (Washington, D.C., 1967). Cited in Robert A. Nelson, A Study of the Effects of Specialized Supervision on the Recidivism Rate of Misdemeanor DWI Probationers in Orange County, TX. Masters Thesis (Sam Houston State University, 1974).
13. National Highway Traffic Safety Administration, Traffic Safety. A report on activities under the Highway Safety Act of 1966 (Washington, D.C., 1975), p.24.
14. Letter from Robert N. Ray, Director of Traffic Safety for the city of San Antonio, 30 March 1977. Figures provided by the Department of Public Safety.
15. Draft of evaluation of ASAP's prepared by the Southwest Research Institute for the National Highway Traffic Safety Administration, "ASAP presentence and probation counter-measures," p. 42.
16. McCrea and Gottfredson, Improved Handling of Misdemeanors, pp. 18-19.
17. Ibid., p. 18.
18. See the Comparative Analysis of Standards and Goals of the National Advisory Commission on Criminal Justice Standards and Goals with Standards for Criminal Justice of the American Bar Association, (Washington, D.C., 1974), pp. 500-501.
19. NAC, Report on Corrections, pp. 317-318.
20. Ibid., p. 321.
21. For a useful account of the distinctions between a community resource development and the more traditional case approach, see "A Comparison of Community Development and Remediation as Approaches to Problem Solving" by William A. Lofquist in Soundings 1:6, (1974), available from the National Council on Crime and Delinquency.
22. NAC, Report on Corrections, p. 30.
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CHAPTER 4 MANPOWER, TRAINING AND VOLUNTEERS

- (1) RECRUITMENT OF STAFF
- (2) SELECTION OF STAFF
- (3) STAFF DEVELOPMENT
(ASSIGNMENT, INCENTIVES,
TRAINING, EVALUATION &
COOPERATION)
- (4) COMPENSATION
- (5) VOLUNTEERS AND ADULT PROBATION

SUMMARY OF RECOMMENDATIONS

- IV.1 Each probation department is responsible for setting and observing its own fully considered standards, policies and procedures consonant with those prescribed here.
- IV.2 All departments should develop and maintain a manual setting forth policies and procedures for (1) recruiting, (2) screening, (3) training, (4) evaluating, (5) compensating and (6) advancing professional and support staff.
- (A) This manual should reflect actual current practice.
 - (B) It should include an organizational chart, job descriptions, and a flow chart of the criminal justice process.
 - (C) Job descriptions should be reviewed regularly, with attention to case load management strategies and specialization of duties.
 - (D) Monies should be made available for republication of the Texas Adult Probation Manual, which could act as a model for these operational manuals.
- IV.3 The State of Texas should define and upgrade minimum education and experience requirements for all professional adult probation positions. At the same time it should upgrade minimum salary levels for professional workers, to insure that they are competitive with entry level positions in other related fields.
- IV.4 Recruitment of qualified candidates for probation workers should be aggressive and thorough.
- (A) Probation departments should contact relevant degree programs (sociology, psychology, criminal justice, and social work) and career counseling and placement offices at those colleges and universities located within their jurisdiction. Together they should:
 - (1) develop students' understanding of the philosophy, objectives, methods and the importance of community corrections through sharing of information, lectures and special programs;
 - (2) encourage students to elect a career in this profession;
 - (3) organize internships, field placements and work-study programs; and
 - (4) recruit talented students for entry-level positions when openings occur.
 - (B) When openings occur departments should communicate with other departments and with local community programs in order to locate qualified applicants.

- IV.5 Only candidates meeting minimum education and experience requirements should be considered for appointment. Selection should be based on merit and fitness.
- IV.6 Each department should devise screening procedures that:
- (1) give full courtesy and consideration to all candidates;
 - (2) adequately test each candidate's poise, intelligence, common sense, and ability to communicate; and
 - (3) are consistently followed.
- IV.7 Probation officers should be released from the routine, clerical and record-keeping aspects of the job as far as possible through assignment of clerical and paraprofessional personnel.
- IV.8 The following principles of training and continued education should be adopted:
- (A) Formal statewide workshops by an independent group catering to the needs of the profession as a whole should provide: two weeks of orientation for all new probation officers; one week of skills development for all experienced probation workers; and one week of management training and consulting for all chiefs of probation annually. Content of these workshops should be determined by annual needs assessments.
- (B) All departments should provide leave time and reimbursement for employees attending professional meetings and other work-related activities.
- (C) Departments with three or more professional staff should set aside at least one half-day each month for in-service training. Departments with fewer than three professional staff should arrange with other such, or else with the larger departments, for local in-service training on a quarterly basis. Budgets should be structured and endorsed to finance travel and/or training materials.
- (D) All departments should plan on-site visits with one another in order to compare programs and management ideas.
- (E) All departments should budget money for professional journals and texts, to keep staff abreast of research findings and thinking in the criminal justice field.
- IV.9 Staff evaluations should be conducted at least annually by all departments. For one-man departments, evaluation is the responsibility of the district judge. Similarly, for probation chiefs, district judges undertake responsibility for evaluation.

CONTINUED

2 OF 5

- IV.10 Channels of communication between line and administrative staff should be open through both formal vehicles (grievance procedures and regular supervision) and informal rapport.
- IV.11 Recent legislation properly assigns fiscal responsibility for underwriting salaries and other probation system expenses to the State.
- IV.12 Salaries, benefits and opportunities for advancement should be competitive with other governmental jurisdictions, the private sector, and comparable occupations.
- IV.13 All probation department staff should be protected by provision of yearly cost of living increases. Merit raises should also be provided within the fiscal structure for probation departments.
- IV.14 All departments with three or more professional staff should develop plans for more effective use of volunteers to meet the ends of probation, undertaking an assessment of their needs and the community's resources. Each department is responsible for clearly articulated policies describing recruitment, screening, training and job performance. These should be included in the department's policy manual.
- IV.15 Departments desiring help with implementation of a volunteer program should contact the Texas Institute for Probation Training, or any of the four adult probation departments already using volunteers extensively, listed on page 225.

Introduction

Capable and dedicated staff are the third vital key to excellence in probation systems. The success of probation programs in the community depends upon a lively well-trained staff given attentive administrative support. Issues may be conveniently classified around professional staff, para-professional and support staff, and volunteer staff. This treatment will give primary attention to professional probation officers and their supervisors. Volunteer programs and staff receive special attention in a separate essay.

Aims

Probation systems must set goals for (1) recruiting, (2) selecting, (3) developing and (4) sustaining a professional body capable of: fulfilling complex responsibilities toward the community; improving the practices and standards of their profession; and promoting the ideals for which they work--namely, protection of the community through strong community-based corrections systems. Each probation department in Texas is an independent entity, with differing professional needs and resources at hand. The discussion, suggestions and recommendations which follow should serve departments in meeting these aims.

GENERAL RECOMMENDATIONS

- IV.1 Each probation department is responsible for setting and observing its own fully considered standards, policies and procedures consonant with those prescribed here.
- IV.2 All departments should develop and maintain a manual setting forth policies and procedures for (1) recruiting, (2) screening, (3) training, (4) evaluating, (5) compensating and (6) advancing professional and support staff.
- (A) This manual should reflect actual current practice.
- (B) It should include an organizational chart, job descriptions, and a flow chart of the criminal justice process.
- (C) Job descriptions should be reviewed regularly, with attention to case load management strategies and specialization of duties.
- (D) Monies should be made available for republication of the Texas Adult Probation Manual, which could act as a model for these operational manuals.
- IV.3 The State of Texas should define and upgrade minimum education and experience requirements for all professional adult probation positions. At the same time it should upgrade minimum salary levels for professional workers, to insure that they are competitive with entry level positions in other related fields.

The aims identified raise many questions. With respect to recruitment (Section 1), each of the following must be considered: What kinds of staff are needed by the department? Where may good candidates be found, and how may they be attracted to the profession? And how may applicants be attracted to rural areas in need of them? Minimum qualifications--experience and education requirements--must be defined. Selection of personnel (Section 2) asks administrators to identify those qualities necessary to meet everyday challenges in probation work, and to consider the advantages of a balanced staff.

Development of a staff which works well together (Section 3) touches on job assignments, incentives, staff training and evaluation, as well as the atmosphere in which work is performed: all demand the attention of the probation chief. Finally, under the present fiscal structure of most departments, retaining those good staff who have been cultivated with care and attention, and who have proven their ability to grow in the work, poses problems (Section 4). What is adequate professional compensation? What benefits should fairly be provided? And what advancement made possible? These issues and questions are dealt with below. Other statewide training and planning efforts should, however, go beyond the scope of this Master Plan in providing administrative strategies that will profit probation departments of differing sizes and needs.

(1)

Recruitment of Staff

RECOMMENDATIONS

IV.4 Recruitment of qualified candidates for probation workers should be aggressive and thorough.

(A) Probation departments should contact relevant degree programs (sociology, psychology, criminal justice, and social work) and career counseling and placement offices at those colleges and universities located within their jurisdiction. Together they should:

- (1) develop students' understanding of the philosophy, objectives, methods and the importance of community corrections through sharing of information, lectures and special programs;
- (2) encourage students to elect a career in this profession;

- (3) organize internships, field placements and work-study programs; and
- (4) recruit talented students for entry-level positions when openings occur.

(B) When openings occur departments should communicate with other departments and with local community programs in order to locate qualified applicants.

What kinds of staff are needed?
Where and how may they be recruited?

Competent recruitment of professional staff requires first that each department analyze job descriptions, criteria for professional qualifications, and specific department needs. Planning is then followed by advertisement which reaches the best potential candidates for the job.

Any probation program is only as good as the people who sustain it. Selection of staff implies an investment of great importance to both the agency and the individual. Thought and effort expended on recruitment and screening should reflect this.

Hiring tends to be occasional, occurring with the loss of staff or new allowances in budget; recruitment campaigns are necessary only when new programs are funded and instituted. Needs can therefore usually be anticipated early. Regular and formal department self-evaluation may be used to this end (and may sometimes be helpful as evidence during budget reviews). Administrators do well to discuss hiring needs with staff, anticipating the kind of person(s) desired, and reviewing the division and management of duties and case loads among present staff.

Before recruiting, job descriptions for the positions open must be prepared. Job descriptions serve as blueprints for every department's operations. Each department should write their own, working from models provided below (see Section 2, this chapter), or else from the descriptions used by other similar departments. These descriptions will reflect the management style of the department, detailing whether PSI duties are shared among all P.O.'s; whether all staff participate in supervising and using volunteers; or whether a department chooses to emphasize a strategy of social/case work, or that of brokering services. Official job descriptions should be current with actual practice, and probation officers and other staff might be periodically asked (as a useful exercise and part of their self-evaluation) to review and rewrite their own.

In the process of recruiting as well as screening, administrators have in mind both: (1) the tangible qualifications which denote preparation for probation work, and (2) the intangible qualities which promise good probation work. The professional must treat with people in many capacities, both formal and informal. Intelligence and sensibility, the ability to grow, experience of the world, and commitment or perseverance in a task are among those aspects of the potential probation officer which must be ascertained and evaluated.

More should be said in favor of specific assests helpful to probation work. Flexibility in working with people and

within systems is called for. Clients will disappoint, manipulate, and find their own ways of achieving a thing. Moreover, the probation agency/system, which is part of both court and county bureaucracies, is likely to be overburdened, frustrating, or even chaotic at times. Directness is likewise useful: probationers need to know where they stand, as well as to know that the officer stands firm. Forthrightness in the mature professional can also be a valuable tool for shaping the agency's direction.

Poise and a clear head in pressure situations and among people of all sorts are essential to credibility and strength. Analytical skills enable the probation officer to see through language that does not mean what it says, or that is contradicted by actions. Curiosity and a questioning approach to people's actions, in combination with a desire to consider the consequences of actions and their underlying values, work for the good of the offenders. Good humor, too, wins confidence--a necessary step toward helping someone to help himself.

As stated earlier, specific department needs should be analyzed before beginning to recruit and screen for new staff. Total staff profile should be considered at this point; it is no more crucial to the large probation department than to the small one. A staff should be well balanced in the viewpoints, personalities, strengths, ethnic heritages and sexes it represents. Balance is favored because it improves the climate in which work is performed, and thereby improves the overall quality of work.

Recruitment should aim at populations most likely to provide dedicated and energetic workers. One such population is the recent college graduate who has experience working with people. In considering the more measurable qualifications befitting probation work, educational background should not be sacrificed for the sake of experience, not should scholarship be substituted for practical experience in the field. While none of the basic requirements for the job (intelligence, initiative, understanding of people, ability to speak and write well) are guaranteed by a college degree, academic experience nonetheless helps someone with these talents to develop them. A good education prepares probation officers to grasp the operations of the courts and of the community. It provides, if not mastery, at least knowledge of a specific discipline--of the questions the discipline raises and the methods it employs. The choice of discipline is far less crucial than the manner of pursuit and degree of achievement in a given field. Through seeking an undergraduate degree the individual learns how to educate himself further, and earns confidence from his achievements--both necessary to corrections work.

At the present time, 81% of the professional adult probation workers in Texas have at least a college education; 37% have also undertaken some graduate level work. The median educational level for chiefs is fifteen years (three years of college). A few academic programs give college credit for training workshops. Probation chiefs should

establish strong, cooperative bonds with colleges and universities around the state. They should (1) seek to explain to students the purposes and methods of community-based corrections, (2) help professors develop curriculum in this area, and (3) help departments advise students about realistic professional opportunities, and about the future of the job market for corrections.

Despite the trend towards technical and vocational training at the undergraduate level, the value of the liberal arts should not be overlooked by probation chiefs recruiting, nor should it be sacrificed by students seeking careers in corrections, and in probation specifically. Departments should not require a specific undergraduate degree or area of concentration in their hiring policies.

Beyond a liberal arts foundation, it is, however, desirable for the student interested in criminal justice and corrections to develop a functional grasp of the social sciences which have helped shape current practices in the field: sociology, criminology, psychology and statistics. Probation departments with internship programs, or who maintain ties with academic departments should encourage both undergraduate and graduate students to gain such a grounding through the following recommended course work.

Sociology: an overview covering history, methodologies, and their application to specific issues

Psychology: an overview covering history, schools of thought, personality theory, cognitive development and deviance

Criminal Justice: an introduction to the systems

Statistics: an introduction

In addition, electives might be selected among:

Introduction to Law

Cultural Anthropology

Social Work Methods

Juvenile Delinquency and Justice

Advanced Expository or Technical Writing

Academic programs should prepare students to write with ease and proficiency. A program organized along these lines will outfit an able student with the technical concepts and language necessary to entry-level work in corrections programs.

Special Criminal Justice programs have been developed recently around the state (Sam Houston State University, the University of Texas at Arlington, and Southwest Texas State University, to mention a few). Here field placements and internships are integrated into the curricula, to the benefit of both student and placement agencies. Professors within these programs should encourage students to consider job opportunities in the rural areas, that might seem either less appealing or less promising to the young graduate, but that often offer more scope and flexibility for growth in this field.

Job openings should receive full public notice. In populous counties where applicants are plentiful this is routinely done through county personnel departments. Newspaper advertisements may be useful in less populous areas. Among the best means for finding candidates, however, is by word of mouth. Contact other probation departments, and other agencies central to criminal justice (e.g., councils of government, private social agencies, or the mental health agency). Volunteer programs may be training grounds for committed, talented applicants.

Job openings may be advertised more widely through several channels, and smaller or new departments especially should take advantage of these. The Texas Corrections Association publishes job notices in their monthly magazine, the Texas Journal of Corrections. University academic departments and programs around the state maintain job boards and active job placement programs. A list of contacts with such programs and departments is supplied on page 181. although it by no means exhausts all possible resources.

EXHIBIT IV-A

DEGREE PROGRAMS - SELECTED INSTITUTIONS

East Texas State University
Department of Sociology-Anthropology
Commerce, Tx. 75428
(214) 468-2298

Lamar University
Department of Public Affairs
P.O. Box 10068
Beaumont, Tx. 77710
(713) 838-8828

MidWestern State University
Criminal Justice Program
Wichita Falls, Tx. 76308
(817) 692-6611, Ext. 376

St. Mary's University
One Camino Santa Maria
San Antonio, Tx. 78284
(512) 436-3110

Sam Houston State University
Director of Criminal Justice Internships
and the Behavioral Sciences
Huntsville, Tx. 77340
(713) 295-6211, Ext. 2004 or 2005

Southwest Texas State University
Department of Criminal Justice
San Marcos, Tx. 78666
(512) 245-2174

Stephen F. Austin State University
Criminal Justice Program
Box 3047
Nacogdoches, Tx. 75961
(713) 569-4405

Texas A&I University at Corpus Christi
Director of Criminal Justice Programs
P.O. Box 6010
6300 Ocean Drive
Corpus Christi, Tx. 78411
(512) 991-6810

Texas A&I University at Kingsville
Department of Psychology & Sociology
Kingsville, Tx. 78363
(512) 595-2701

Texas A&M University
College of Liberal Arts
College Station, Tx. 77843
(713) 845-5141

Texas A&M University
Department of Sociology
College Station, Tx. 77843
(713) 845-5133

Texas Southern University
School of Public Affairs
3201 Wheeler Avenue
Houston, Tx. 77004
(713) 527-7318 or 527-7319

The University of Texas at Arlington
Institute of Urban Studies
Criminal Justice Programs
Arlington, Tx. 76019
(817) 273-3071

The University of Texas At Austin
Lyndon B. Johnson School of Public Affairs
Sid Richardson Hall 3.301
Austin, Tx. 78712
(512) 471-4175

The University of Texas at Austin
School of Social Work
Austin, Tx. 78712
(512) 471-5456

The University of Texas at El Paso
Director
Criminal Justice Program
El Paso, Tx. 79968
(915) 747-5296

The University of Texas at San Antonio
Criminal Justice, Division of Special
Programs
College of Multidisciplinary Studies
San Antonio, Tx. 78285
(512) 691-4620

University of Houston
Central Campus
Graduate School Of Social Work
Charles McElhinney Building
3801 Cullen Blvd.
Houston, Tx. 77004
(713) 749-3813

University of Houston
Downtown College
Division of Criminal Justice
#1 Main
Houston, Tx. 77002
(713) 749-1952

(2)

Selection of Staff

RECOMMENDATIONS

- IV.5 Only candidates meeting minimum education and experience requirements should be considered for appointment. Selection should be based on merit and fitness.
- IV.6 Each department should devise screening procedures that:
- (1) give full courtesy and consideration to all candidates;
 - (2) adequately test each candidate's poise, intelligence, common sense, and ability to communicate; and
 - (3) are consistently followed.

The second problem area identified with respect to manpower was the screening and hiring of applicants. Each department should possess (or develop) a manual outlining procedures. While each department will choose to handle screening and interviewing in a different fashion, and to apply different criteria for selection of new staff, the following suggestions are made.

Two interviews are advisable. The preliminary interview provides an opportunity to gain an impression of the candidate and to explain the responsibilities of the position. The formal application and resume should be reviewed carefully before a second, more intensive interview. This should be used to further ascertain strengths and weaknesses in the applicant's background, and to raise and answer questions about the job. The applicant's talents at interviewing may be tested: if questions about the job are good, it is

likely that questions of a probationer in investigation or supervision would be intelligent and fruitful as well.

Staff should have the opportunity to meet and speak with candidates at some point before an offer is made. Some departments employ a screening "board" at the second interview stage, consisting of staff and other community professionals.

The serious candidate should be afforded a copy of the job description developed by the department for the position being considered.

Candidates who are not given serious consideration should be informed in writing of their status promptly. Serious candidates not receiving an offer of employment deserve the courtesy of thanks for the time and effort they have expended in applying and interviewing; some explanation of any weaknesses in background should be offered if possible. Application portfolios of highly qualified candidates should be kept for a reasonable length of time (approximately one year) in the event another opening should occur.

All candidates should be submitted to the same screening process, in compliance with E.E.O.C. requirements, and to avoid the charge of favoritism.

Personality profile tests should not substitute for first hand impressions, and are appropriately used after hiring a candidate rather than before.

Departments should be actively committed to the identification and elimination of individual practices that intentionally or otherwise deny an employee or applicant equal employment opportunity because of race, sex, color, religion, or national origin. A statement to this effect should be included in the department's policy manual, and larger departments should delineate responsibility for the realization of equal employment opportunities.

Job Descriptions

The following professional job descriptions are adapted from the Texas Adult Probation Manual and reflect a consensus of opinions among probation officers and chiefs around the state. Minimum education and experience requirements have been revised to embody the recommendations of this Master Plan.

The Bachelor of Arts or Sciences degree should be a minimum requirement for all professional positions, and for all positions in which the work of a probation officer is being done (since some departments designate the majority of staff doing case work as "deputy" or "assistant" probation officers). No exceptions to this requirement should be retained by rural departments, where the provision of sufficient salaries and good recruitment programs should attract qualified candidates. (The new Section 10 of Article 42.12 removes this exception: S.B. 39, Acts 65th Legislature, 1977.) Salaries are touched upon in Section 4, this chapter,

and recommendations for fiscal support are taken up in Chapter 7.

Academic discipline, however, can seldom substitute for practical experience either. Within the present job market, professional positions to which professional salaries are attached should readily attract persons with experience in this or related fields. Experience provides a realistic handle on the nature and complexity of corrections work, and on whether the work will be enjoyable on a daily basis. An applicant's record of "experience" may be tested against his (or her) acquisition of these two things. Two full years' experience in a pertinent field is preferred, although the new statute requires either one year of graduate work or one year of experience for all professional positions in which the work of a probation officer is being done.

Chief Probation Officer. The chief, or director of probation, is appointed by the district judge or board of district judges. A chief should be designated for every department with more than one professional on the payroll doing the work of a probation officer. With the approval of the district judges, the chief assumes the following managerial duties, delegating some as is necessary or fitting to the size and structure of the department.

Staff hiring &
supervising

1. Appoints assistants and other employees to carry on the professional, clerical, and other work of the court.

2. Supervises and coordinates activities of workers.
3. Assigns volunteer workers to various sections within the department.
4. Studies production schedules and estimates man-hour requirements for completion of job assignments.
5. Analyzes and resolves work problems, or assists staff in solving work and case problems.
6. Initiates personnel actions: promotions, discharges, and disciplinary measures.
7. Confers with workers or their representatives to resolve grievances.
8. Initiates plans that will motivate workers to achieve work goals.
9. Reviews staff evaluations to assess training needs.
10. Develops and evaluates in-service training programs for all staff members and for all volunteers.

Training

* * * * *

Administrative
management

1. Develops administrative policies and procedures relating to personnel, staff development, training, budget, and physical facilities.

2. Sees that department practices comply with the standards embodied in this Plan.
3. Interprets department policies, job orders, and assignments to staff.
4. Defines and adjusts work procedures to meet probation assignments.
5. Evaluates measures to improve department operations.
6. Confers with staff supervisors to coordinate activities of individual sections within the department (or in small departments confers directly with staff to do the same).

* * * *

- Public relations
1. Establishes and maintains relationships with other agencies and organizations in the community regarding policies and resources available for the treatment of probationers, persons on PR bond, and others for whom the department holds direct or indirect responsibility.

Education and experience requirements: Baccalaureate degree from an accredited college or university. At least two years full-time casework, counseling, or community or group work in a social, community corrections, or juvenile agency that deals with offenders or disadvantaged persons. In departments with case loads of over 300, an additional year of managerial experience is necessary.

Assistant Chief Probation Officer. The assistant chief or assistant director performs duties delegated to him by the chief and assumes the authority and responsibilities of the latter in case of absence. Other specific responsibilities vary with the size and management design of the department, but may include the following.

1. Directing and coordinating the work of volunteers and volunteer agencies, and soliciting their services for the department.
2. Seeing that department policies and procedures are complied with.
3. Evaluating instruction on proper procedures and techniques for volunteers.
4. Preparing statistical data for the chief.
5. Preparing composite reports of subordinates.

Education and experience requirements: Baccalaureate degree from an accredited college or university. At least two years full-time casework, counseling or community or group work in a social, community corrections, or juvenile agency that deals with offenders or disadvantaged persons.

Supervisor. The supervisor, whose work requires the exercise of independent, mature judgment in supervising referral and/or treatment plans and clerical staff, should

have direct experience as a probation officer. The supervisor (who performs in a middle-management capacity) may be accountable to the department's administration for any or all of the following.

1. Presentence investigations (reviewing and approving reports).
2. Case assignments to supervision units.
3. Supervision of clients (directly and indirectly).
4. Case staffings and review of violation reports.
5. Assignments of volunteers to treatment teams or units.
6. Training and evaluation of officers, assistants, interns, and volunteers.

Education and experience requirements: same as those for assistant chief, but must have had some experience directly as a probation officer.

Adult Probation Officer. The adult probation officer undertakes two years' training, the first of which is probationary. The officer performs his work under general supervision, according to laws and well-defined rules, and procedures established by the department. The nature of the work requires the exercise of independent, mature judgment in supervision of a treatment team as well as the probationer.

All persons in whom are vested full responsibility for case supervision, investigative reports and legal action should be given this title. Work includes:

1. Investigative casework and preparation of presentence investigation reports.
2. Supervisory casework with probationers and treatment teams; counseling probationers; case planning in cooperation with other community resource agencies; referral to these agencies for treatment.
3. Preparing formal reports--case records, vocational records, violation reports.
4. Consulting with outside agencies about the goals and needs of probation work and community corrections more broadly; developing needed programs for specific clients and categories of clients.

Education and experience requirements: Baccalaureate degree from an accredited college or university. At least one year full-time casework, counseling or community or group work in a social, community corrections, or juvenile agency that deals with offenders or disadvantaged persons.

Assistant or Deputy Probation Officer. The assistant or deputy probation officer fills a paraprofessional position that can be useful to departments with five or more professional staff. Working under the close supervision of the probation officer, the assistant participates in treatment

teams and undertakes the same duties spelled out for probation officers, saving those which entail a legal responsibility. This person assists in:

1. presentence investigations;
2. interviews;
3. case staffings;
4. report preparation and other office duties; and
5. working with volunteers.

Because this position is a flexible one, gradations of job titles are suggested.

Education and experience requirements: A.P.O. I One to two years of college and one full year of paid or unpaid employment in a related field. A.P.O. II - Three years of college and one full year of paid or unpaid employment in a related field. Up to one year of education may be substituted for the same amount of experience and vice versa.

For other job descriptions, such as those for office manager, secretary, bookkeeper and fiscal manager, and community resource developer, the reader is referred to the Texas Adult Probation Manual; no changes in responsibilities or education and experience requirements spelled out there are recommended by this Plan.

Staff Development

RECOMMENDATIONS

- IV.7 Probation officers should be released from the routine, clerical and record-keeping aspects of the job as far as possible through assignment of clerical and paraprofessional personnel.
- IV.8 The following principles of training and continued education should be adopted:
- (A) Formal statewide workshops by an independent group catering to the needs of the profession as a whole should provide: two weeks of orientation for all new P.O.'s; one week of skills development for all experienced probation workers; and one week of management training and consulting for all chiefs of probation annually. Content of these workshops should be determined by annual needs assessments.
 - (B) All departments should provide leave time and reimbursement for employees attending professional meetings and other work-related activities.
 - (C) Departments with three or more professional staff should set aside at least one half-day each month for in-service training. Departments with fewer than three professional staff should arrange with other such, or else with the larger departments, for local in-service training on a quarterly basis. Budgets should be structured and endorsed to finance travel and/or training materials.
 - (D) All departments should plan on-site visits with one another in order to compare programs and management ideas.
 - (E) All departments should budget money for professional journals and texts, to keep staff abreast of research findings and thinking in the criminal justice field.
- IV.9 Staff evaluations should be conducted at least annually by all departments. For one-man departments, evaluation is the responsibility of the district judge. Similarly, for probation chiefs, district judges undertake responsibility for evaluation.
- IV.10 Channels of communication between line and administrative staff should be open through both formal vehicles (grievance procedures and regular supervision) and informal rapport.

- A. Assignments: How to use staff talents best?
- B. Incentives: How to encourage the desire to learn? the desire to be creative in work?
- C. Training: How can staff's powers be cultivated?
- D. Evaluation: How may their achievements and progress be tested and measured?
- E. Cooperation: How can an atmosphere of cooperation and encouragement be maintained?

Probation programs evolve, changing character as well as casts. Most departments are pressed merely to keep up with the changes and pace of the times. A handful manage to forge ahead. These last are characterized by dynamic staff who are willing to experiment and take chances in trying on new ideas about casework management and corrective strategies.

(A)

Experimentation is likewise called for in eliciting the most effective and efficient staff performances. One variable which may be manipulated in the larger departments with five or more professional staff is department organization and job assignments.

Many departments are limited by size or circumstance in the organizational schemes which will function well. Larger departments, however, can afford to move staff around, and to change types of case loads carried from time to time. For instance, departments in which all case loads are of the same basic composition might consider specialization of certain officers, so that one carries only maximum supervision cases, and others carry only minimum supervision

cases; or so that one staff person handles all DWI's, and another handles all probationers with identified educational or vocational handicaps. Such assignments as these might be guided, at least in part, by staff evaluations of relative strengths.

In the same way, each officer might be asked to serve as a special referral agent to a different local community agency such as TEC, TRC, DPW, or MHMR, and to work with members of that agency as part of a treatment team. Although on-going case work with clients discourages sudden or even regular shifts in job assignments and department policies, constant review, careful innovation, fresh starts and fresh strategies are recommended. Probation officers should be afforded opportunities for new challenges and experiences; channels by which these opportunities may be realized should be formal and direct. Growth and change signal a professional, self-assured organization.

(B)

Even the best, most self-determined staff respond to such professional incentives as further education and training, advancement of responsibilities, and deserved boosts in salaries. All of these must be built into each probation system, whether that system consists of one staff person or fifty.

For small rural departments, responsibility for providing incentives must rest with the district and county judges, who govern budgets, salaries, and policies. Here the need is greatest, where the means may be smallest. The biggest needs are often for (1) adequate support staff and (2) exchange of new ideas and methods. Professional advancement within the small department is unlikely where case loads cannot expect to expand beyond 150 to 200. The most fruitful incentives are therefore further education and technical training; merit raises regularly considered; and a climate permitting probation workers to take the lead in developing community programs for pretrial release, for unavailable services, for volunteer participation in probation, or for other aspects of crime prevention.

Judges should encourage P.O.'s in rural communities to build into their budget money for travel to at least two formal state training programs each year, as well as to one or two selected departments in order to conduct on-site visits and/or participate in locally-sponsored in-service training. Training should be assigned importance equal to that of casework, and time as well as money should be budgeted to accommodate it, without neglect of duties. In addition, judges should encourage P.O.'s to pursue further education in criminal justice and related fields. Where no college or university is accessible and adequate to this purpose, correspondence courses partially serve the need to work

through concepts and acquire information. The best learning, however, is possible in a setting which permits personal exchange and guidance, discussion and debate--most often found in the classroom.

Probation officers who seriously desire to continue their education in order to improve the quality of their work should be permitted leaves of absence for up to two years of full-time study. In the case of one and two man departments, a replacement must be recruited without promise of tenure beyond the period in question. Large county departments, or else a statewide apparatus, should consider underwriting partial academic expenses for promising workers, in return for a contracted number of years' continued service. Some progressive state agencies (e.g., TEC, DPW, TYC, Health Resources) and school districts pursue this course now, calling the allowance a stipend or fellowship.

As for regular incentive measures within the larger probation departments with five or more professional staff, all staff should be able to participate in regular in-house training sessions. Each new P.O. should participate in an outside orientation training workshop, and should be informed of further training opportunities he or she may anticipate. Allowance should be made for workers who desire to take up to three hours of course work on office time, providing that all responsibilities to the job are given first priority and can be adequately fulfilled.

Merit raises should be considered on a routine basis every six months, although they should not follow automatically, or without review by peers and self-evaluation. More will be said about compensation below.

Middle management, supervisory positions should be filled giving preference within the department whenever possible, to advance and reward dedicated, aggressive staff.

These are all structural responses to the problem of encouraging excellent and creative work on a daily basis from staff. The most effective response, however, is surely for administrators to set an example of energy, discipline, imagination and initiative. Without such leadership many of these structural incentives are likely to fail.

(C)

Training for probation professionals should be provided at three distinct levels. (1) Formal statewide workshops should be sponsored, as they are now, by an independent group catering to the needs of the profession as a whole. (2) Departments with three or more professional staff should plan their own regular in-service training session to supplement the former, and to improve individual as well as department practices. (3) Finally, all departments should share and exchange staff on an occasional basis in order to compare specific programs and management strategies. Inter-agency training should also be developed and undertaken, probably at a state level.

First, as to formal statewide workshops. Three agencies presently have a hand in this: the Texas Institute for Probation Training (Sam Houston State University in Huntsville), which provides a series of formal workshops for both juvenile and adult officers; the Texas Corrections Association, which sponsors a wide range of criminal justice workshops at its annual and regional conferences; and the Texas Probation Association, which holds regional and statewide workshops for the purpose of up-grading the profession. The former two have been funded in the past with LEAA monies. The TCA workshops are designed for and by members, who represent probation, parole, community-based and institutional corrections programs and related groups such as prosecutors, judges, welfare, the Rehabilitation Commission, and law enforcement. Presentations are necessarily of a more catholic nature.

The Texas Institute for Probation Training (TIPT), on the other hand, concentrates solely on probation needs, as they are seen by a democratically elected advisory board of probation chiefs. The TIPT has sponsored workshops and programs over the past three years, during which time the emphasis in curricula has shifted to accord with local identified needs. Methods, content and direction conform with the "General Standards for Training Programs" adopted by the Criminal Justice Division. Under present funds and staff, six workshops (for adult and juvenile probation

workers together) are scheduled over the year. One brings all probation chiefs together to discuss administrative problems; attendance is roughly 125 strong. Two week-long sessions are devoted to advanced training for experienced officers and middle management sorts; approximately 160 can be accommodated in all. And the other three workshops are constructed as orientation sessions for novice P.O.'s of whom some 240 may participate over the year.

In all, then, presuming that a P.O. or chief will attend only one of the six sessions, some 525 persons enjoy these workshops. But there are twice that number of probation professionals, adult and juvenile, in the state. The TIPT projects annual representation at roughly 40% of the profession. Most P.O.'s or supervisors may expect to attend a TIPT session only once every two years. At the time the survey was undertaken for this Plan, only two departments were formally supplementing these training sessions with their own established in-service programs.

It is safe to deduce that demand and need for training far outstrip the present supply. If further evidence were necessary, it might be found in the TIPT's grant application for funds, 1977, which notes that "at our last workshop we had to turn down requests for 85 additional officers to attend, and this is not unusual."

More statewide workshops should be funded to improve this situation. If TIPT is to continue managing these workshops (and participants seem to be satisfied with their

quality and direction so far), two new staff positions should be added, and the number of workshops doubled. The present projected length of training sessions, 40 hours or five days, is ideally suited to concentrated attention and the acquisition of new skills, and should be retained. Program planning should take care to balance professional, private trainers against public employees currently active in the criminal justice system. The present ban by CJD on compensation to public officials for their time and participation should be reexamined at the end of a year's time to ensure that such practicing professionals and academics are not being excluded de facto from presentations because of this condition.

The basic training needs for urban and rural departments are not appreciably different. A particular effort should be made to represent rural areas on all programs, however, to reinforce relevancy to the smaller departments.

Content of workshops is presently determined by a yearly needs assessment. Long-range goals as well as yearly objectives should be articulated by training planners. Particular skills and knowledge requiring attention in a statewide forum are identified throughout this Plan. It is hoped that those responsible for training programs will make use of these recommendations.

The Institute of Probation Training makes an effort to extend the reach of its programs by video-taping them, by providing abstracts or digests of workshop proceedings, and

by cultivating approximately 30 resource people, spread around the state, who are capable of carrying back to their departments the principles and methods of training for in-service programs. Although a few problems have been encountered in effecting this concept, it holds much promise. The principle of encouraging departments to develop their own training components is sound.

Training is best an on-going enterprise. Most local departments know their own needs and weaknesses best; they also possess the talent to overcome or meet some of these needs. Departments should determine themselves, by means of needs assessments like those used by the Probation Training Institute, a plan for regular in-service training. Departments with three or more professional staff should set aside at least one half-day each month for training. Presentations by staff, by university professors, or by representatives of social agencies, of law enforcement agencies, and of the court should be planned. District and/or county judges should be invited to participate in selected appropriate sessions, or to lead them. Video tapes of special programs prepared by the Institute may be helpful, and may be easily obtained. Attention might be given by the statewide training group to training packages that could be purchased and distributed to specific types of departments. Smaller departments should join together for these sessions.

Departments should encourage outside reading in areas related to work and should encourage staff to keep up with developments in the field. Larger departments should set aside part of their budget for subscriptions to periodicals, newsletters, and the purchase of basic texts. A list of reliable and informative periodicals, many of which are available at no or small cost, is provided on pages 204-206. Both large and small departments, however, have full access to the libraries of most state universities, and certainly to the fine library at Sam Houston State University's Institute for Contemporary Corrections and the Behavioral Sciences. Department administrators should be made aware of borrowing privileges and procedures from this library, which is equipped to mail out reprints and/or the volume needed. Administrators should in turn put this information before their staff and encourage them to make use of the service.

Statewide workshops provide a forum for exchange and stimulation of ideas. Departments are recognized there as having particularly effective record keeping systems, or community resource strategies, or personal recognizance bond programs: each could be tremendously useful and applicable to other jurisdictions and departments. Two measures are recommended to help departments understand how they might apply such programs or procedures to their own situation. First, exemplary projects should be identified, and training presentations at statewide conferences of a descriptive nature should outline the projects' usefulness and applicability to other jurisdictions. Moreover, department administrators should be able to see these programs at work.

For this reason it is recommended that departments undertake to budget travel money that would allow an exchange of staff between, or in any case, staff visits to other departments. Along these lines, two or more departments might choose to coordinate their in-service training sessions, inviting special outside resources. If budget requests for such activity are not politically or fiscally feasible, then a special fund should be established and maintained at the state level to subsidize reasonable requests for such travel.

More needs to be done to educate one part of the criminal justice system in what another part does, and along these lines it is suggested that at least two of the extra workshops already recommended dwell on interagency issues at the state and local levels. An Interagency Workshop as such is held during two weeks of each summer at Sam Houston State's Institute for Contemporary Corrections. Departments are encouraged to send on-line staff to this workshop, or indeed to other privately and publicly sponsored state, regional and national conferences.

EXHIBIT IV-B

SHEFLIST OF PERIODICALS & NEWSLETTERS
FOR
PROBATION DEPARTMENT LIBRARIES

Attorney General's Crime Prevention Newsletter (free)

Attorney General's Office, Crime Prevention Division
Supreme Court Bldg., Capital Station
Austin, TX 78711

Detailed synopses of the most significant Attorney General's opinions and current decisions of the Texas Court of Criminal Appeals bearing on all criminal matters. At least monthly.

Corrections Magazine

(\$36--Organizations,
\$18--Individuals)

Correctional Information Service, Inc.
801 Second Avenue
NY, NY 10017

Excellent reporting on prison systems, special programs, and profiles of state and city correctional systems. Quarterly.

Publications of the National Council on Crime and Delinquency:

411 Hackensack Avenue
Hackensack, NJ 07601

Crime and Delinquency

(\$15)

"A professional forum for expression and discussion of all competent views of the administration of criminal justice." Quarterly.

Criminal Justice Newsletter

(\$55)

The most thorough and comprehensive report on significant developments for leaders in criminal justice administration; national coverage. Biweekly.

Criminal Justice Abstracts

(\$40)

In depth abstracts of current literature, worldwide in scope, and a comprehensive review that summarizes the knowledge of a particular subject. Quarterly.

SHELFLIST CONT'D

Criminal Justice Highlights

(free)

Governor's Office, Criminal Justice Division
411 W. 13th St.
Austin, TX 78701

Information on grant activity and outstanding replicable projects. Approximately six times a year.

Federal Probation

(free)

Administrative Offices of the United States Courts
Supreme Court Bldg.
Washington, D.C. 20544

"A journal of correctional philosophy and practice." Quarterly.

L.E.A.A. Newsletter

(free)

U. S. Department of Justice
Law Enforcement Assistance Administration
Washington, D.C. 20531

Broad coverage of LEAA activities, research briefs, and new programs and trends. Ten issues annually.

National Criminal Justice Reference Service

(free)

National Institute of Law Enforcement and Criminal Justice
U. S. Department of Justice
Law Enforcement Assistance Administration
Washington, D.C. 20531

A clearinghouse for information and activity announcements, providing abstracts of new research works, exemplary project descriptions and so forth, many of which are available free of charge from the Government Printing Office. Biweekly.

Perspectives Newsletter

(\$5)

American Probation and Parole Association
2104 Otis Street
Durham, North Carolina 27707

Feature articles, editorials, and line officers' columns for members of the A.P.P.A..

SHELFLIST CONT'D

Pretrial Intervention Review

National Pretrial Intervention Service Center, ABA
1705 DeSales St., N.W.
Washington, D.C. 20036

Current events and feature articles on criminal justice diversion activities. Quarterly.

Pretrial Justice Quarterly

(\$5)

American Friends Service Committee
1300 Fifth Avenue
Pittsburgh, PA 15219

Newsletter covering programs, studies, and news pertinent to pretrial release programs. Quarterly.

Texas Journal of Corrections

(free to members,
\$7.50 for non-
members)

Texas Corrections Association
7800 Shoal Creek Blvd., Suite 364W
Austin, TX 78757

Coverage of programs, issues, and activities in Texas. Four issues and eight supplements.

On Volunteers:VIP Examiner

National Council on Crime and Delinquency, VIP Division
Box 31
Flint, Michigan 48501

Information on volunteer programs: articles, news briefs, excerpts from volunteer newsletters, and listing of books. Quarterly.

Voluntary Action News

(\$4)

National Center for Voluntary Action
1785 Massachusetts Ave., N.W.
Washington, D.C. 20036

Covers volunteer activity in a wide range of applications. Six times a year.

Volunteers for Social Justice

National Information Center on Volunteerism, Inc.
Box 4179, 1221 University
Boulder, CO 80302

Disseminates information on volunteer programs in the courts, institutions, prevention, diversion and related areas.

Merit raises and training have been discussed as means for cultivating and encouraging good staff. Another structure for achieving the same ends is staff evaluation--regular self-assessment and periodic supervisory evaluation for all personnel.

Self-assessment asks officers and administrators to reflect on their progress towards personal and professional objectives every four to six months. Each individual should review the standards of performance he or she has maintained over that time. Objective ratings should be coupled with a brief subjective statement of expectations and performance. The evaluation should be handled discreetly and confidentially. An interview between each worker and his or her supervisor should encourage discussion of this assessment and of future plans.

Performance should be rated as either superior, good, adequate or poor. The criteria outlined on the succeeding pages are reworked from a staff evaluation form presently used by a probation department in Texas. Other criteria applicable to specific duties might be added. Evaluations of assistant probation officers and persons in management positions should be modeled after these.

Probation officers are hired for a probationary period, during which time they are in training, under close supervision. They should be given continuous feedback as to their progress. Department administrators should not hesitate to confront workers who are not producing, explore

causes and solutions and revise job assignments accordingly.

A staff person who will not carry his share seriously undermines staff morale. If a concerted effort fails to resolve problems, and a more compatible position cannot be found within the department, the administrator should not hesitate to give a worker sufficient notice to find another job.

EXHIBIT IV-C

PROFESSIONAL EVALUATION CRITERIA

(Rate as Superior, Good, Adequate or Poor)

I. Concept of Job and Administrative Procedures

- ___ 1. Understands job responsibilities
- ___ 2. Understands and adheres to departmental procedures
- ___ 3. Understands and adheres to departmental philosophy
- ___ 4. Understands the various responsibilities and relationships of departmental personnel
- ___ 5. Adjusts to new procedures
- ___ 6. Approaches appropriate administrators about problems or questions in their specific areas

II. Management and Execution of Responsibilities

- ___ 1. Meets deadlines for court and department activities
- ___ 2. Plans effectively to carry out case load responsibilities, according to department priorities and clients' needs
- ___ 3. Defines personal and professional priorities in work
- ___ 4. Is available when and where necessary
- ___ 5. Is prompt in preparing and presenting reports
- ___ 6. Is current with chronological records
- ___ 7. Accepts responsibilities for decisions
- ___ 8. Delegates responsibilities to volunteers and assistants
- ___ 9. Works with volunteers effectively and thoughtfully
- ___ 10. Consults with supervisors and administrators about volunteers and clients
- ___ 11. Responds in a mature and intelligent fashion to constructive criticism
- ___ 12. Uses authority reposed in the job judiciously
- ___ 13. Helps other staff in the daily execution of their job
- ___ 14. Is considerate and efficient in working with other service agencies

Professional Evaluation Criteria cont'd

III. Counseling and Direct Casework

- ___ 1. Develops and makes use of analytical and diagnostic abilities
- ___ 2. Becomes aware of clients' social and economic needs
- ___ 3. Probes into clients' behavior, attitudes and feelings
- ___ 4. Assists clients in recognizing problem areas
- ___ 5. Encourages clients to find better approaches to problems
- ___ 6. Gains the confidence of clients
- ___ 7. Allows clients to participate in decision-making
- ___ 8. Sets limits for clients and responds appropriately to violations of those limits
- ___ 9. Confronts clients when the need appears
- ___ 10. Is flexible and experimental in approach when working one-to-one with clients
- ___ 11. Plans and conducts effective group counseling as required
- ___ 12. Makes use of all resources in work with clients

IV. Effective Communication

- ___ 1. Expresses self clearly and effectively
- ___ 2. Listens carefully and objectively
- ___ 3. Contributes to department meetings and staffings
- ___ 4. Written reports are well-organized, clear, and succinct yet sufficient to support conclusions and recommendations
- ___ 5. Chronologicals contain relevant factual and subjective information in simple format
- ___ 6. Chronologicals are consistently signed and dated
- ___ 7. Presentations at case staffings are well-prepared, orderly and factual
- ___ 8. Represents the department's policies and objectives to both clients and the public.

IV-C

Professional Evaluation Criteria cont'd

V. For Probation Officer in One- or Two-Man Departments

- ___ 1. Budget is adequately designed to accommodate a thorough probation program (equipment, supplies travel and support staff)
- ___ 2. Worker/chief is willing to take chances on defendants or clients
- ___ 3. Worker/chief is willing to defend those risks before district and county judge
- ___ 4. Encourages judges to make use of worker's PSI potential
- ___ 5. Encourages judges to make full use of the probation disposition as an alternative to incarceration
- ___ 6. Worker is willing to speak freely about needed changes in system policy, and to help bring them about
- ___ 7. Community's voluntary help and support is solicited
- ___ 8. Community's voluntary help and support are used to fullest effect

VI. For Probation Chiefs

- ___ 1. Takes an active interest in a small case load, retaining limited direct contact with probationers and the courts
- ___ 2. Talks with on-line staff periodically
- ___ 3. Visits satellite offices regularly to review policies and problems (where appropriate)
- ___ 4. Oversees provision for staff training; reviews programs for in-service training
- ___ 5. Oversees provisions for staff evaluations
- ___ 6. Maintains good staff morale, and provides for established work incentives
- ___ 7. Holds regular staff meetings
- ___ 8. Reviews department and court policies and practices regularly
- ___ 9. Discusses department problems candidly with supervisory staff
- ___ 10. Delegates responsibility but knows how that responsibility is executed

(E) //

Staff cooperation and morale affect the quality of probation work in obvious as well as covert ways. The atmosphere of a department is established and perpetuated by its administrative leadership. It rests with this person to hire staff who have demonstrated the ability and commitment to work well with people, and who enjoy the work.

Administrative and supervisory leadership sets an example to other staff through help, sensitivity and anticipation of the needs of staff. By applying imagination, potential hurdles, sources of frustration, or on-the-job training needs may be foreseen; and provisions may be made against them.

The privacy of staff after hours should be respected. Probation Officers who maintain too intense a pace should be warned against the phenomenon of "burn-out," and case loads and/or case management readjusted to allow for a healthy personal life.

Open channels of communication between all staff are keys to good morale. The causes of frustrations which could not be anticipated and/or forestalled deserve to be explored

between a worker and a supervisor, before they fester. Sources of frustration include problems with clients, personal problems, or pressures and difficulty executing the work demanded. Once the source is defined it becomes possible to talk through means for resolving it. Professional frustration may call for redefinition of professional and personal aims, and for resort to any safety valves that serve to relieve the pressure.

Staff training and recreational activities are among the many opportunities for improving and maintaining morale. Strong leadership generates a good climate for creative work. More concrete answers are discussed in the next section of this chapter: fair professional compensation.

(4)

Compensation

RECOMMENDATIONS

- IV.11 Recent legislation properly assigns fiscal responsibility for underwriting salaries and other probation system expenses to the State.
- IV.12 Salaries, benefits, and opportunities for advancement should be competitive with other governmental jurisdictions the private sector, and comparable occupations.
- IV.13 All probation department staff should be protected by provision of yearly cost of living increases. Merit raises should also be provided within the fiscal structure for probation departments.

What is adequate professional compensation?
What benefits should be provided?

Compensation for probation workers around the state, like almost every other aspect of probation systems, varies enormously, ranging anywhere from \$6,000 to \$11,000 for beginning probation officers. It is contradictory and short-sighted to ask probation administrators to invest time and effort in recruiting and cultivating talented staff, without making provision for competitive professional salaries commensurate with the responsibilities and pressures of the job, in order to hold them. This problem is most awkward in rural areas where probation services are relatively underdeveloped: without a greater investment of monies to develop and sustain active, competent staff, they shall remain so always.

The crux of this fiscal problem is a contradiction inherent in the statutory administrative structure of probation systems, under Article 42.12 (Section 10). District judges are assigned sole authority for hiring of staff, and final responsibility therefore for probation policies and practices. In county commissioners, however, has been vested final responsibility for allocating the monies to support these systems. A state judicial body is thereby assigned administrative prerogative, while a local executive body is asked to assume fiscal burden. As probation is the sole correctional program for felons not completely subsidized and administered by the state's executive branch,

many counties do not welcome the outlay required. Conflicts have resulted in some jurisdictions. Two court cases testing the relative powers of these two entities--the one shaping a budget, and the other underwriting it or not--have led the Texas Court of Civil Appeals to interpret the statute as follows.

District judges have responsibility for appointing probation officers and designating the salaries, but should consult with and seek advice of commissioners court or courts involved so that they may have information necessary for determination of proper probation program. The statutory language "with advice and consent" means: "consent" required of commissioners court is to budget, appropriate and pay expenditures established for salaries of probation personnel so long as the expenditures are necessary and reasonable to discharge essential business. Burden of proof must rest with commissioners court to show that district judges' actions are so unreasonable, arbitrary or capricious as to amount to abuse of discretion. Commissioners Court of Lubbock County v. Martin (1971 Civ. App.) 471 S.W. 2d 100, ref. n.r.e..

Words "advice and consent of the commissioners" were not intended to confer veto power on commissioners court or to give such court authority in lieu of that required of the district judge. Commissioners Court of Hays County v. District Judge, 22nd Judicial District of Hays County (1974 Civ. App.) 506 S.W. 2d 630.

Even so, this sharing of responsibilities has resulted in minimal fiscal support for probation, the largest cost of which goes into personnel. In 1976, almost 95,000 offenders were supervised at a total statewide expenditure of roughly \$10 million, only forty percent of which was assumed by local taxes (the other sixty percent derived from federal funds and probation fees). It is time that administrative/fiscal conflicts of interest be resolved, and that more value be placed on probation as a correctional tool, and on the people that wield this tool.

The ABA Standard 6.7 pertaining to "salaries of probation personnel" states the need simply and straightforwardly enough:

Entry salaries should be competitive with entry salaries offered in related fields such as welfare, education, and community action programs. (Standards Relating to Probation, p.101.)

In most departments, this is sadly not the case now.

A vital step in moving Texas's probation systems forward must be the provision of more attractive starting salaries, particularly in rural areas. The concept of a standard minimum salary should be adopted by the state. This concept already holds the support of three-fourths the probation chiefs and two-thirds the district judges around the state.

Standard minimum salaries for entrance to professional positions should be based on information gathered, first, on national trends in salaries offered to recent graduates; and second, on present salary levels for correctional personnel of the Board of Pardons and Parole and the Department of Corrections. The most recently available salary data is provided on pages 217-18, Tables IV-A&B.

Provision and/or enforcement of minimum salary requirements would require either licensing of departments and/or a new fiscal plan for financing probation through state subsidy, or complete reorganization of probation to place it under the executive branch of state government. These options are considered more fully later in this paper.

TABLE IV-A

State Classification Salary Schedule
September 1, 1977 - September 1, 1978
Compensation for Positions of the Board of Pardons & Paroles

<u>POSITION</u>	<u>PAY GROUP</u>	<u>SALARY RANGE</u>	<u>REQUIREMENTS</u>
Case Worker II	12	\$12,408-\$15,624	Entry Level - BA; or 3 yrs. college & 1 yr. experience in corrections
Parole Officer I	13	\$13,248-\$16,692	Promotional opportunity within agency. Must have satisfactorily completed 6 month probation period as Case Worker II.
Parole Officer II	15	\$15,108-\$19,044	Promotional opportunity within agency.
Institutional Parole Officer	16	\$16,140-\$20,340	Promotional opportunity within agency.
Parole Supervisor	17	\$17,244-\$21,720	Promotional opportunity within agency.
Parole Staff Supervisor	19	\$20,340-\$25,608	Promotional opportunity within agency.
Director of Division of Parole Supervision	21	\$23,196-\$29,208	Promotional opportunity within agency.

TABLE IV-B

National Average Monthly Salary Offers
for Master's Degree Candidates, 1975-1976*

<u>Degree Area</u>	<u>Average Offers</u>
Humanities	\$963/month
Social Sciences	\$1,009/month

National Average Monthly Salary Offers
for Bachelor's Degree Candidates, 1975-1976*

<u>Functional Area-Type of Employers</u>	<u>Average Offers</u>
Business Administration	\$856
Community & Service Organization Work	\$736
Law Enforcement Services	\$875
Personnel/Employer Relations	\$878
Public Administration	\$831

*Men & Women, with one year or less of full-time, non-military employment.
(College Placement Council Salary Survey, Report No. 2, March, 1977,
Bethlehem, PA. p. 6.)

In addition to assurance of minimum salaries, officers, administrators and all other staff should be guaranteed yearly cost of living raises, independent of other income, at the current state rate. Salary standards should be reviewed by the responsible body at least every four years, to insure that they remain in line with salaries offered in other comparable professions.

Chiefs should also budget so that small merit raises are possible to professional and support staff every six months. Merit raises should not be automatic, but should remain contingent upon fair evaluation of performance and effort.

These recommendations should be given very high priority within the structure of this state plan. Other efforts to improve programming and administration will neither speak nor serve so well as will more money.

(5)

Volunteers and Adult Probation

RECOMMENDATIONS

- IV.14 All departments with three or more professional staff should develop plans for more effective use of volunteers to meet the ends of probation, undertaking an assessment of their needs and the community's resources. Each department is responsible for clearly articulated policies describing recruitment, screening, training and job performance. These should be included in the department's policy manual.
- IV.15 Departments desiring help with implementation of a volunteer program should contact the Texas Institute for Probation Training, or any of the four adult probation departments already using volunteers extensively, listed on page .

"More manpower." From all sides, this is offered as the key to improving Texas's probation systems. The judgment is certainly apt, as recommendations already presented confirm. Yet there are other means for extending services as well, whose costs are considerably less than those for trained and qualified professionals. Both probation workers and the community need to understand that pumping more money into the criminal justice system has not had an appreciable affect on crime rates. The limits of public spending in this area are fast being reached. What is badly needed-- what will determine the future success of community corrections-- is active citizen involvement and interest.

Volunteers have potential to serve most adult probation departments in Texas in the capacity of unpaid staff. Hence we include here a discussion of using volunteers effectively in this setting, and set out to answer two compelling questions: (1) Why start a volunteer program? (2) What can volunteers do?

Anyone who has ever worked in this field knows that probation and community corrections flounder without the material support of individual citizens and the community at large; that volunteers promote the correctional goals and objectives of adult programs. Probation began on the initiative of volunteers in the nineteenth century, and became a professional field later. Volunteerism is not a fad. We have begun to face the knowledge that our franchise as citizens asks a greater share of our time and attention, that our service economy is tenuous, and that professional government charity does not suffice. Private individual

initiative is necessary to probation, whose aim is again emphasized to be maintaining the integrity of our society.

As several Texas departments have already proved, volunteers can become a crucial, integrated part of the probation processes in the community. Why use volunteers? At least three benefits accrue to any correctional program from a well-managed volunteer component. First, direct services to clients are improved: case loads are relieved, and distinctive services--not appropriate or possible from an official of the court--are provided. In the second place, the volunteer brings to probation work the fresh perspectives and ideas of an outsider and a nonprofessional. A volunteer's enthusiasm is contagious. And finally, but most importantly, volunteers create and boost good community relations, helping to educate the public about the workings of the criminal justice system and about the needs and problems of probationers.

All three are compelling reasons for using volunteers to work for the ends of probation. Yet our survey of probation services indicates that in Texas today the public is marginally involved at best. Probation departments were asked in 1976 to provide a count of all volunteers working with them (see Volume I, Appendix, Q1, #1). Nineteen departments counted 509 volunteers, most of these to be found in Dallas, McLennan, Denton, and Travis counties. These four agencies manage formal, fully-evolved programs which serve as models for the rest of the state. A majority of the remaining 105 departments not reporting any volunteers

function in predominantly rural areas, where the interest of the citizenry is harder to catch and retain. Yet few of these could not profit by investment in a volunteer program such as is described in this essay, modified to fit special needs.

Why do many departments fail to extend themselves in this vital area? First of all, many departments seem to hold pre-conceived notions that citizens would be unwilling to work with adult offenders, coupled with skepticism that such a program could be helpful to them. Others refuse to take the time. Finally, resistance to the idea arises from a lack of knowledge about how volunteers can be effective, or from a lack of imagination about how to make them so.

In some cases, however, omission of volunteers from a probation program is a function of the department's fundamental definition of its business. If probation is administered so that all community resources are marshalled for the purpose of rehabilitating the offender, then volunteer activity naturally follows. If, on the other hand, the agency concentrates only on supervision, the potential for volunteers is limited accordingly.

Arguments against using volunteers with adult offenders are countered by the record of success for those departments--the Texas Adult Probation Project in Travis County was one--who have recruited volunteers, even from rural areas, and made use of them as part of treatment teams.

These programs have found that volunteers could be effective in numerous capacities, among them:

1. Counseling (individual, family, financial, etc.);
2. supervision;
3. investigation;
4. preliminary report writing;
5. clerical tasks;
6. referrals to other agencies;
7. helping to find jobs for probationers;
8. providing transportation for special needs; and
9. helping the department with public relations.

Once an able volunteer has been trained in the operations of the department, he or she can step in and perform any combination of these tasks, as the department sees fit.

The other barrier to volunteer programs commonly invoked by departments is time. This is an especially difficult problem for the very small department. How can the probation officer covering a case load of 200 in two rural counties, who already spends over 50 hours a week on the job, take on additional responsibilities for recruiting, training and supervising volunteers? The answer to this must be twofold. First, case loads must be reduced to conform with a standard of seventy-five cases, by the addition of professional staff. And then, time must be more carefully budgeted and more efficiently managed; energies must be spent where the return will be greatest.

The average number of hours spent weekly by those P.O.'s now supervising volunteers is only four (although in one department P.O.'s spend as much as twelve hours, in another ten hours, and in a third, eight hours weekly). If a handful of intelligent and capable volunteers could be recruited and trained to work directly with clients or undertake presentence investigation tasks, they could more than return those four hours necessary to oversee and organize their work.

Guidelines follow for starting a new volunteer program, and for sustaining its operation so as to enjoy the greatest economy and the most meaningful profits. It goes without saying that a good volunteer program must rest on a good professional program. Professional competence must be the first priority.

Volunteers are not professional probation officers, and are not to be considered as such. Consequently, the limits of their responsibilities and authority must be clearly defined. They should not make final decisions about a case or appear in court or public without coordination with probation administration. They should be selectively screened for interests, abilities, and character. Training and orientation should be thorough; supervision and assistance should be constantly available; and all the consideration that would be due another staff person should be shown to volunteers. These are the basic ingredients for a good program.

Starting a Program

The first step is one of gathering information about volunteer programs, about the community, and about staff needs. Initiative must come from the probation department's administration, whose total support and approval are vital to success. Designing and developing the program is not an overnight affair, but will take several months. In larger departments a coordinator or director of volunteers, preferably an experienced staff member, should be designated to help plan and to implement the program. In smaller departments a volunteer could be enlisted to function as coordinator.

Information on volunteer programs can be obtained from departments around the state now using them, or from national organizations. Inquiries may be addressed to volunteer coordinators within the following departments:

Travis County Adult Probation Department
Travis County Courthouse, Annex
Austin, Tx. 78701

Dallas County Adult Probation Department
414 South R. L. Thornton Freeway
Dallas, Tx. 75203

McLennan County Adult Probation Department
Courthouse Annex, Rm. 300
Waco, Tx. 76701

Denton-Cooke Adult Probation Department
301 E. Oak
Denton, Tx. 76201

In addition, Mr. John Cocoros of the Texas Institute for Probation Training functions as coordinator for a recently approved grant from CJD/LEAA to improve the use of volunteers for adult probation. Inquiries may be addressed

to him. A National Center for Volunteers operates out of Denver, Colorado, and can provide relevant program descriptions and bibliographies, as can also the nationwide Volunteers In Probation Association, and the National Center for Voluntary Action. Addresses are:

National Information Center on Volunteerism
P.O. Box 4179
Boulder, Colorado 80302

Volunteers in Probation
200 Washinton Square Plaza
Royal Oak, Michigan 48067

National Center for Voluntary Action
1785 Massachusetts Ave. N.W.
Washington, D. C. 20036

At the same time that information is gathered about how other programs function, the community's climate and resources should be assessed. A planning committee, consisting of key citizens, academicians, and/or county or city administrators, can be useful in this undertaking. Needs should also be assessed with department staff. Workshops or informal staff sessions provide a forum in which to discuss how volunteers could fit into the workings of the department and the courts, and what their limits would be. They can also encourage staff participation, and deflate any potential staff resistance to the idea of working with volunteers.

A volunteer program can not flourish without staff acceptance, understanding and support. A staff inexperienced in working with volunteers may: (1) question volunteers' effectiveness; (2) be reluctant to put in the time required to supervise a number of volunteers; and (3) feel threatened, even though jobs are in no way hazarded by the presence of

volunteers. Let staff air out their anxieties in an open atmosphere, and then provide them with well-trained volunteers who do not later prove to be problematic, ineffective, and undependable. Welcoming innovative ideas as suggestions from staff will make them feel that the program is theirs.

One of the tasks to be undertaken by staff and/or a planning committee is the formulation of volunteer job descriptions. A statistical profile of the department's probationers can guide in setting priorities for volunteer help. Volunteers can be most instrumental in encouraging clients to develop social skills, new interests, a sense of accomplishment and self-respect; they advocate the welfare of the probationer. A probationer usually respects the volunteers' donation of time to help him. Job descriptions should reflect this potential. The following suggestions might guide departments in writing job descriptions.

Volunteer Job Descriptions

Courtroom Assistance. In both felony and misdemeanor courts, assists the court officer in filling out legal probation papers and referral slips, and generally facilitates court procedures for the court officer.

Presentence Investigation Assistance. Assists the presentence officer in considering applicants for probation and referrals by the courts: interviews; contacts references; compiles information; and prepares a preliminary write-up for a presentence report.

Supervision and Treatment Assistance.

1. Works with individual probationers on a one-to-one basis. Besides acting as a listener and a friend, helps client to improve his educational or employment status, his financial budgeting, or his family situation. Works in this capacity to meet individual needs, under the supervision of and with full cooperation from the probation officer.

2. If qualified, provides individual group counseling.

3. Ministers to special needs of probationers: provides transportation to job interviews or treatment appointments; accompanies probationer to provide support, or to open doors that might otherwise be closed.

4. Provides information on how and where to seek specialized aid in the community.

5. Professionals in such fields as law, psychiatry, medicine, dentistry, psychology, or accounting, may perform specialized services in their field, as well as any of the above.

6. Undertakes clerical duties within the department office.

- - - - -

Next, with key community people represented by the planning committee in hand, map out a recruiting campaign. At the same time, extend your own resources to the community, especially to other parts of the criminal justice system, whose confidence in your work may be important.

Finally, put the program on paper. Once the concept takes concrete form it can then be refined by experience. This program description will serve as the basis for materials used to advertise the program: a brief xeroxed or off-set brochure is all that is necessary. A good application form should be part of the program description. An example is appended at the close of this essay.

Recruiting

Start slowly, and experiment with a small program, expanding after three to six months. Effective recruiting builds upon homework done during planning stages.

For new programs, applicants will come from any and all identified resources and recruiting will be more general in nature. In time, recruiting may become more selective, geared to meeting specific needs. Some resources will prove more fruitful than others.

Post notices. Contact the media. Contact also the local Voluntary Action Center; unions; city employees; universities and colleges; and other large organizations. Speak with civic groups, social clubs, churches, and representatives from all of the above. Approach individuals, and encourage personal recruiting: word of mouth is the most effective method possible.

Materials for distribution in the community should state the purposes of probation, describe the department, and stimulate interest in probation work. When addressing groups:

1. present an overview of the purposes, functions and goals of the adult probation department;
2. stress the need for citizen concern about crime, the need for rehabilitating the offender in the community, and the importance of citizen participation in community corrections;
3. demonstrate the work's challenge, and the opportunity for learning and growth;
4. describe clearly the types of jobs available for volunteers;
5. be honest about limitations of the work; and
6. be brief enough to encourage questions.

Enthusiasm and optimism will communicate themselves.

Screening

Interviewing for information is an art. So, too screening. Four steps are necessary, once recruits have been interested in volunteering their time. First an application form should be completed and reviewed. References should, without fail, be checked. An interview will then serve to further acquaint you with the applicant's reasons for volunteering and his suitability to probation work.

Volunteers should like people, and be willing to involve themselves with someone who has broken the law. Maturity, stability, a willingness to learn, empathy without sentimentality, and a strong self-identity are basic criteria for someone who desires to work with adult offenders. Persons who are unable to spend sufficient time with probationers, who are gullible, faddish, domineering, or who want to escape personal problems through involvement in the program are not good candidates. Applicants who are clearly unsuited must be tactfully rejected, counselled, or whenever possible, directed to another more appropriate agency.

Some offenders may have something to offer other probationers because of their success in turning themselves around--the probation department exercises discretion in screening ex-offenders, and supervises so that it is accountable for their work.

Applicants who would serve the department well should define the time, interests, and skills they could put to best use in aiding probationers. They begin their work only after thorough orientation and training, of which approximately eight hours should suffice. The applicant is notified by phone or letter as to the time and place of the first training session.

Training

Volunteers must be willing to attend training sessions and to inform themselves about criminal justice. These sessions are conducted by the volunteer coordinator (in smaller departments, the chief) with the assistance of supervisors, line staff, other professionals, and other volunteers. Training serves to further screen out those who realize they are not prepared to commit themselves to this type of work. It sets the tone of the volunteer's career with the department and of his supervision by staff.

A training program, which will average approximately eight hours in all, should be organized in some fashion similar to the following.

First Session

1. Outline the history of the probation department, and of probation itself.
2. Describe the department's organizational structure, functions, and objectives.
3. Discuss the role of the volunteer: its responsibilities and limitations.
4. Ask a judge to address them.

Second Session

1. Delineate and discuss the criminal justice process: trace the steps of the defendant from time of arrest to sentencing and intake for probation.
2. Describe in detail the presentence investigation and report, their functions, and the services to be rendered by volunteers in their preparation.
3. Describe case load management techniques (for instance, supervision/treatment teams), and describe jobs available in this area.
4. Describe and discuss casework procedures and techniques; detail a few case histories.
5. Present a film or other documentation to reinforce any of the above.

Third Session

1. Cover explicitly all conditions of probation.
2. Provide notebooks or folders with written material to supplement oral presentations. They might contain: facts and definitions about probation; the statutory probation conditions; essays on counseling techniques; an outline of the criminal justice processes; a list of abbreviations and terms commonly used; and the department's statement of philosophy and professional ethics.

3. Allow volunteers the opportunity to become familiar with the department's handbook (or the Texas Adult Probation Manual), and other educational materials.
4. Issue ID cards, signed by the department director.
5. Ask volunteers to sign a pledge of confidentiality regarding all information seen or read pertaining to probationers.

Once job assignments are made, on-the-job training is continued by the staff. In-service training should be open to all volunteers.

Assignment

Assignment of volunteers to various jobs or sections of a department raises some management issues, and will follow different patterns according to the department's organizational structure and needs assessment. Two models are found in this state; both have their advantages. One assigns the volunteer to specific cases referred by probation officers to the volunteer coordinator; the latter supervises the volunteer's work with that probationer. The other is a team model. The volunteer is assigned to a compatible probation officer (or team of probation officers, as the case may be), who in turn designates specific cases from his case load and supervises the volunteer's work. Problems that arise are worked out in conjunction with the volunteer coordinator.

The relationship of staff to volunteers is the touchstone of a program. Hostile staff may undercut worthy efforts. If a probation officer resists taking on a volunteer for any reason it is wise not to force the issue; there is a strong chance the volunteer program will eventually sell itself. Probation officers should receive special training and evaluation on effective management with volunteers. In a healthy program, professional staff will treat volunteers as unpaid staff. The volunteer coordinator follows up on assignments, and should any problems have developed, intercedes to resolve them.

Staff Responsibilities For Volunteers

Upon completion of orientation, volunteers are asked to contact the probation officer or team to which they are assigned (if this applies). Phone numbers and addresses are provided. Officers are likewise furnished with names and addresses. Introductory meetings are arranged straightway. If there is difficulty establishing contact, the volunteer coordinator should be notified.

Officers plan with volunteers the use of their time and the type of work assignment to be assumed. Jobs should be meaningful to, and commensurate with the abilities of, volunteers. Those who will work one-on-one with clients should be allowed a period of time to observe interviews and group sessions. They should have access to case records and should become acquainted in a general way with the case

load. Assignment to clients should take into account personalities, backgrounds, talents and needs. Before beginning to work with a particular probationer, the volunteer should review all available background information and discuss treatment strategies.

Initial contact between volunteer and probationer should be made in the company of the probation officer, whether at the office or on a home visit, in order to fully establish the role of the volunteer as a working member of the department. Volunteers working in the community report periodically to the department/team, and enter case contact information on the chronological sheets, signing their full name, not initials. The supervising officer reviews these. He also continues occasional contact with the probationer, since the responsibility for supervision is still his.

Probation officers keep up with volunteer hours, and enter them on monthly reporting forms. If volunteers do not perform up to par, this should be brought to the attention of the coordinator. Volunteers who do perform and contribute to the department are to be respected as co-workers, and accepted as part of the staff. They should always be included in staff and department functions such as Christmas parties and get-togethers.

The volunteer deserves regular supervision and followup by the volunteer coordinator, preferably on a monthly basis. The coordinator should also be available whenever a crisis arises.

In supervision, goals should be reviewed and revised. Periodic progress reports might be requested: a sample report form is appended, p. 241-2. Staff should be alert to recognize and reward a volunteer's achievements.

Administration and Financing

Central records should contain all information on volunteers, their assignments, followup, and evaluations. Records should permit a current picture of the system: how many volunteers have been screened and trained: how many await assignment; and how many have left service.

Unless special funds can be awarded on a grant basis, volunteer programs must necessarily be integrated into the department's regular budget. Each department routinely sets its own priorities in the expenditure of its annual budget, and many projects compete for priority. One might well question whether large awards of special tax dollars should be used by a public agency to solicit the involvement of the public.

What is the cost of a volunteer program? Expenses are chiefly incurred to salary a volunteer coordinator, whether that is a full- or part-time function. The other categories involved are training and travel. With moderate effort, however, these costs may be minimized. Departments desiring fiscal support for volunteer components to their probation

program may look to four potential sources:

- (1) federal dollars through the Criminal Justice division of the Governor's Office;
- (2) state dollars through a subsidy system;
- (3) local dollars through commissioner's court and the regular budgeting process; and
- (4) private foundations.

In summary, volunteer programs provide avenues for citizen education, involvement, and generate local support of the objectives of community corrections. Much research has been conducted in this area and much money expended on advertising the benefits of citizen activity, yet probation departments need to make far more practical, daily effort. Many of the resources lacking to probation officers, to administrators and to judges exist, untapped, in our communities. Texans are responsible to provide imaginative leadership in marshalling and developing these resources.

EXHIBIT IV-D

VOLUNTEER APPLICATION

All information provided on this form for the purpose of determining volunteer service for you will be held confidential. Your cooperation is appreciated.

NAME _____

HOME ADDRESS _____

HOME TELEPHONE _____ BUSINESS TELEPHONE _____

EMPLOYER _____

BUSINESS ADDRESS _____

OCCUPATION _____

SOCIAL SECURITY # _____ DRIVER'S LICENSE # _____

DATE OF BIRTH _____

MARITAL STATUS _____ SPOUSE _____

Are you presently enrolled as a student? ____ Where? _____

Education _____ Primary Interest _____

Do you drive a car with adequate insurance and would you be willing to drive it to transport clients as part of your volunteer work?

Children; their ages:

Personal hobbies and interests:

How much time would you be able to give weekly?

What time of day would you normally be available?

Focus of special interest as a volunteer?

IV-D

Volunteer service experience:

In what areas would you need preparation or training, and why?

By what name would you like your probationer to call you?

Have you ever been arrested? If so, please explain.

Have you ever been convicted of a criminal offense? If so, please explain.

How did you learn about this program?

Why do you want to be a volunteer?

Are there any personal things you would like to be considered in matching you with a probationer?

Please provide name, address, and telephone number for three personal references.

Having considered the opportunities and responsibilities involved, I hereby offer my services as a volunteer with the Adult Probation Department. I agree to complete the prescribed training, to work with the probationer assigned me for at least one year, seeing him or her in person at least once a week. I agree to hold all information directly concerning probationers in confidence, and to report to the supervising probation officer as directed. I also waive liability against _____ County in connection with my duties as a volunteer.

Signature _____

EXHIBIT IV-E

VOLUNTEER PROBATION COUNSELOR'S MONTHLY PROGRESS REPORT

(Due on or before ____ of month) Date: _____

Volunteer _____ Probationer _____ Officer _____

MEETINGS

Total number of meetings scheduled and kept: _____

Were any meetings missed? _____ If so, why and how did you handle it?

Use of Meetings

(1) Discussion (Please check)

(a) _____ Get acquainted

(c) _____ Problem oriented

(b) _____ General discussion

(d) _____ Personal material

(e) Other: _____

(2) Special Activities (Please explain)

(a) Recreational

(b) Home Visit

(c) Other

(3) Emergencies: (Please explain)

(a) _____ Probationer in jail

(b) _____ Report violation of probation

(c) _____ Family problems

(d) _____ Personal problems

How was the emergency handled?

If the probation department was consulted, were you satisfied with their handling of the problem?

AGENCY CONTACTS

What community agencies, if any, did you contact for assistance?

Was satisfactory service obtained?

IV-E

PROBLEMS IN THE RELATIONSHIP

- (1) a. ☐ No problems
b. ☐ A few minor problems
c. ☐ Major problems
1. ☐ Did not keep appointments
2. ☐ Attendance is irregular
3. ☐ Seems very aloof and distant
4. ☐ Poor attitude toward society
5. ☐ Does not accept advice
6. ☐ Does not follow through on things we talk about
and plan
7. ☐ Does not seem to be forming a satisfactory
relationship

GOALS

- (1) What are the short term goals you and your probationer are
working toward?
- (2) What long range goals are you and your probationer working toward?
- a. Progress to date has been:
☐ Minimal ☐ About as expected ☐ Good ☐ Excellent
- b. Progress since last monthly report:
☐ Minimal ☐ About as expected ☐ Good ☐ Excellent

ADDITIONAL COMMENTS:

Do not write below this line

Comments from Volunteer Coordinator:

SELECTED BIBLIOGRAPHY

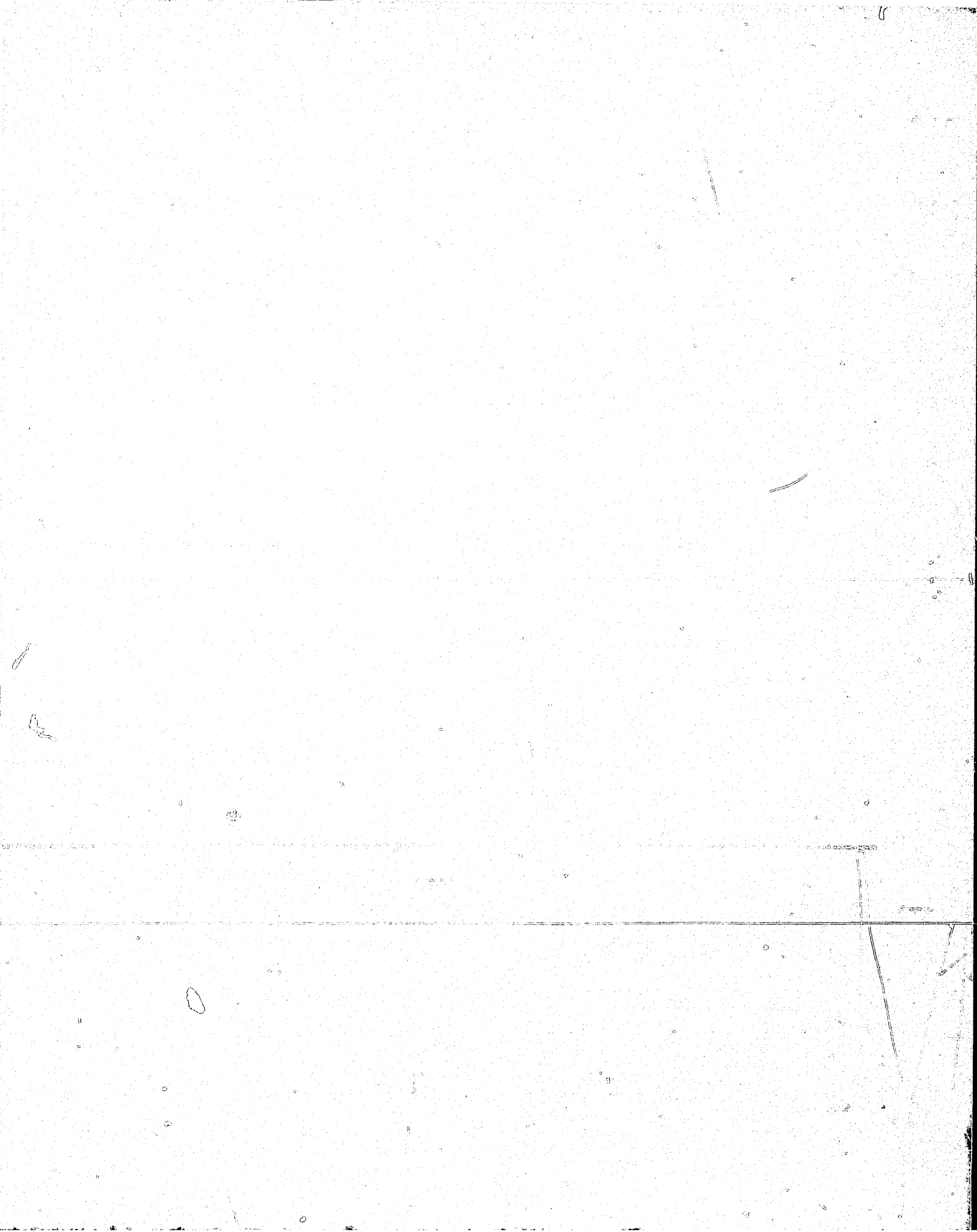
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CHAPTER 5 FACILITIES & EQUIPMENT

- (1) OFFICE SPACE
- (2) EQUIPMENT
- (3) TRAVEL EXPENSES
- (4) COMPUTER SYSTEMS & TERMINALS

SUMMARY OF RECOMMENDATIONS

- V.1 Every probation department in the state should be officed in a facility affording:
- (1) sufficient privacy to carry on professional work;
 - (2) ample space and furniture for professional and support staff to expedite all tasks;
 - (3) sufficient and well maintained equipment to facilitate work, namely: telephone, typewriters (preferably electric), a calculator, dictating equipment, access to copy machine(s), filing cabinets, access to computer terminals and facilities; and
 - (4) continual maintenance to ensure a clean, neat, uncluttered appearance.
- V.2 Guidelines specifying adequate office space and equipment are provided herein for departments in rural, metropolitan, and major metropolitan areas.
- V.3 All departments' budgets should embrace expenses for travel necessary to:
- (1) supervise, counsel, and assist all probationers and defendants conditionally released;
 - (2) perform presentence investigations;
 - (3) appear in court whenever needed; and
 - (4) take part in training programs and professional meetings as recommended in Chapter 4.
- Expenses may be met through either a flat mileage rate (in line with that paid state employees), a monthly allowance based upon the distances that must normally be covered, or else a county-owned vehicle.
- V.4 All probation departments should begin to make plans for purchase of equipment and participation in the projected Comprehensive Data System, a computerized information system which will be coordinated among all segments of the criminal justice system.

Introduction

Adequate facilities, floor space and equipment are essential for probation departments to effectively serve courts and serve the public. Physical surroundings affect morale and general attitude toward work and toward people. Poor, dysfunctional equipment frustrates the efforts and energy of good workers. The Master Plan staff conducted a survey of probation department facilities and their equipment. From 75 departments, reports on 126 facilities were received. Detailed data was requested but responses were sporadic. Our analysis of conditions must therefore be general.

From this survey it is clear that many probation departments are hampered in their work by poor physical plants and inadequate equipment. These problems are most severe in rural areas where: (1) probation departments share offices with other agencies or officials; (2) office space and architecture are crowded and inflexible; (3) travel allowances are limited; and, (4) sufficient funds for physical support are not forthcoming. For many departments equipment is also obsolete (13 rural offices, for example, have only manual typewriters, and still others do not have a typewriter for every clerical staff person).

Several of the major metropolitan areas are also cramped. For instance, in Harris County, five probation officers share an office of 320 square feet without

partitions. Even those departments with new and modern facilities are beginning to outgrow them. Privacy is generally identified as the biggest problem.

Under both the old and the new amended statute, Article 42.12, Section 10, counties are responsible to provide probation departments with facilities and to furnish them. Problems, then, are tied to those of local county governments. Most probation departments should anticipate expansion of their programs over the next five years. Guidelines articulated here describe a physical plan in which probation agencies could fulfill their multiple functions without hindrance. These should be used in planning new expansion.

Aims

Office space, supplies and equipment should be provided and managed so as to expedite work and make the best use of personnel. The physical plant should be designed to: maintain employee morale; make the best use of existing floor space; allow privacy; and supervise staff work with ease. The location of facilities should make probation officers accessible to reporting clients. Direct and indirect benefits will be the higher standard of services rendered for the safety of the community.

(1)

Office Space

Although departments are limited to some extent by the facilities provided them, they must manage their space to best advantage. Recommended guidelines for floor space found here follow those of a management study commissioned by the Criminal Justice Division of the Governor's Office from Peat, Marwick, Mitchell and Company (Study of the Prosecutor's Offices in the State of Texas, Austin, 1971).

RURAL - Departments in jurisdictions with less than 50,000 population.

<u>POSITION</u>	<u>MINIMUM SPACE REQUIREMENTS*</u>
Chief Probation Officer	240 sq. ft. (private)
Probation Officer	120 sq. ft. (private)
Secretary	200 sq. ft. (work area, files and waiting space for three persons)
Additional Administrative Staff	80 sq. ft. working area
- - - - -	Access to Conference Room

*Each worker.

METROPOLITAN - Departments in jurisdictions with 50,000 to 250,000 population.

Note: A majority of these departments operate auxiliary or satellite facilities. A supervisor in a satellite office may require slightly more space, in view of added administrative duties.

<u>POSITION</u>	<u>MINIMUM SPACE REQUIREMENTS</u>
Chief Probation Officer	280 sq. ft. (private)
Asst. Chief Probation Officer	240 sq. ft. (private)
Probation Officer	160 sq. ft. (private)
Probation Officer team of two	220 sq. ft. (private)
Supervisor/Administrative Assistant	200 sq. ft. (private)
Computer Operator	100 sq. ft. (terminal and work space)
Clerk, Secretary and/or Bookkeeper	80 sq. ft.
- - - - -	Access to 400 sq. ft. Conference Room

MAJOR METROPOLITAN - Departments in jurisdictions with over
250,000 population.

Note: Again, most departments operate satellite
offices. Additional space is recommended for
administrative staff in view of the number of
professional and support staff supervised.

<u>POSITION</u>	<u>MINIMUM SPACE REQUIREMENTS</u>
Chief Probation Officer	320 sq. ft. (private)
Asst. Chief Probation Officer	280 sq. ft. (private)
Supervisor/Administrative Assistant	200 sq. ft. (private)
Probation Officer	160 sq. ft. (private)
Probation Officer team of two	220 sq. ft. (private)
Computer Operator	100 sq. ft. (terminal and teletype space)
Administrative Secretary	120 sq. ft.
Clerk, Secretary and/or Bookkeeper	80 sq. ft.
- - - - -	400 sq. ft. Conference Room

In addition to this private and open floor space, each department should possess adequate storage space for all records and supplies. Where storage space is an acute problem, records should be microfilmed for storage and retrieval.

Control of noise is difficult where temporary partitions exist. Offices should be arranged to compensate as well as possible. All offices should be provided heating and air conditioning. Steps should be taken to conserve energy however possible. Offices should also have access to a water fountain and rest rooms. Waiting areas should be pleasant.

Equipment

Desks - Each professional, support and clerical person should have his own desk. Additional table space for interns, volunteers and for work on special reports or projects is desirable.

Telephones - Each professional should have one, within reach of the desk. The number of lines must be determined by each office so as to accommodate all professional workers.

Electric Typewriters - Each clerical staff with typing duties should be provided one. In addition, probation officers who so desire should have access to a typewriter.

Calculator - More flexible and more useful than an adding machine, each metropolitan and major metropolitan office should have one, and each rural office should have easy access to one.

Dictating and Transcribing Equipment - Recommended for administrative staff in major metropolitan and metropolitan departments. Also, probation officers should have access if desired for preparation of presentence investigation and other reports. In rural areas a portable dictaphone is preferable.

Copy Machine - A cost/need analysis should govern arrangements for this service. Most rural departments could not justify the expense of rental or purchase, but should have ready access. Metropolitan departments serving several courts and supervising 300 or more probationers could probably support either rental or purchase. In major metropolitan areas each central administrative office should have a machine.

Criminal Identification Equipment - Desirable if access to this service at the offices of the sheriff or Department of Public Safety is not convenient or practical.

Microfilm Equipment - Highly desirable for departments with limited storage space and large bulk of records.

Computer, Terminal and Word Processing Center - Discussed in Section (4) below.

(3)

Travel Expenses

Fair compensation should be provided in all districts, and does not seem to be a problem except in the rural areas. Travel expenses of two different types should be budgeted. First, that for routine travel within the jurisdiction of the department, and then that for travel outside the

jurisdiction to professional conferences, training, workshops or other probation agencies. Department administrators should not be required to receive special approval for each expenditure in the latter area, but should work within a budget and keep complete records of all expenses covered. Reimbursement for routine daily travel may be met through flat monthly rates (based on average distance covered), through a standard mileage rate, or through provision of a county-owned vehicle.

(4)

Computer Systems and Terminals

A sophisticated criminal information system is fast becoming a prerequisite to good case management. Technology for computerized systems has reached a level to make them practical, manageable and affordable. The technology no longer requires highly trained specialists, but is accessible to the layman in any probation office. The advantages realized and work time saved with such a system outweigh the necessary investment of time, money and manpower.

A majority of departments already use a "flash" system operated either by the FBI or by the DPS. Arrest and conviction data are recorded. All departments should make use of this service and obtain arrest histories for case records.

on all probationers and any defendants under investigation until a more sophisticated and convenient system becomes operational.

Within five years Texas will possess such a comprehensive data system, supplying information on criminal justice activities to all law enforcement, prosecutors, courts and correctional programs. This system, in the planning stages now, will be partially subsidized with federal monies for purchase of equipment and technical assistance in the use of this equipment. Departments should plan now to participate in this system from its inception and take advantage of reduced initial expenses.

A computerized information system is flexible and efficient. It can be made to perform numerous clerical tasks that are presently unwieldy and time consuming. Some of the many functions possible for such a system may be noted here.

First, it will provide immediate, easy access to criminal history information on individual probationers or on defendants under investigation. This will save clerical and professional time in preparation of PSI's or in response to law enforcement inquiries. All transactions regarding a person under some form of supervision or surveillance will be recorded as they occur, providing a tracking system for probation departments and all segments of the criminal justice system. Probation departments operating or overseeing pretrial release or diversion programs will record

information from the first contact with an accused defendant. A format may be developed, and information supplied, so that the computer can printout a standardized presentence investigation report requiring the investigator only to add special remarks, to summarize, and make recommendations. Improved processing of a case will result.

The second advantage of this computerized system will be instant access to current information on the status of probationers regarding: address last reported, date last reported, employment, status of financial payments, supervising officer, and any other information programmed into the system. A sample of the kind of information which may be readily obtained through computerized records is provided as Exhibit V-A at the end of this chapter. Exhibit V-A deciphers and reproduces the client report form used by the West Texas Regional Probation Department. Such information will be valuable to the supervising probation officer in his daily management of cases. It will also be useful when violation of probation conditions is alleged or a case is staffed.

In addition, comprehensive information on probation departments and/or court activities may be periodically compiled from information that is processed and stored. Hence, with the help of a computer, departments will have the means to describe probationers, relevant demographic characteristics, sentencing practices, case loads, and collection of fees, court costs, restitution and so forth. They will expedite their bookkeeping, entering each payment

by a probationer at the time it is made and obtaining from the terminal a receipt reflecting payment, balance, and categories to which payment applies. A financial statement for the department as a whole may be prepared whenever desired.

Each department's data for both felons and misdemeanants can be tied into a statewide data bank, permitting similar statewide pictures and analyses. This will facilitate research and planning. Eventually, accumulation of data regarding success and failure factors may permit projection of the likelihood of success for a candidate for probation, from which would follow improved sentencing practices. Finally, use of the computer to store records will save storage space and allow expunction if arrest is not pursued after a set period of time, without unreasonable effort, in accordance with recent legislation passed by the 65th Texas Legislature (Senate Bill 471, Regular Session).

The equipment necessary to do all this is very simple. A "data display" system consists of a keyboard (operator console) and visual screen (display monitor). Cost for this piece of equipment will be approximately \$1,520. Annual maintenance will cost \$1,260 for each of the first five years (a guaranteed limit). This data display system will provide high speed access to criminal history information and offender based transaction statistics. Probation departments will also have the option to purchase a mini-computer (projected cost of \$8,000), to store and analyze information pertinent to department operations. Although some rural departments may not find that their needs justify

an outlay for the mini-computer, most departments will find the cost more than justified by the machine's ability to expedite bookkeeping, accounting, research and planning. In addition to the data display and computer equipment, at some point in the future a word processing center will be developed to function as part of this system.

Probation departments should pursue the following steps. Local departments should become informed about the development of the Comprehensive Data System, with the help of the state service center. They should exchange information with those departments already using this technology for management purposes (El Paso, Dallas, Corpus Christi, Galveston, and San Antonio). These departments report that they have just begun to tap the capabilities of their systems. The only disadvantage they report is occasional malfunction of the equipment, which temporarily disrupts services. A statewide training workshop for probation chiefs should take up this topic.

Rural departments should meet with other agencies or offices with whom they might share cost and use of a terminal and mini-computer. Court clerks, county jails, and sheriff's offices would have a mutual interest in coordinated management of criminal justice information.

Computer technology has become sufficiently advanced that costs for both equipment and time are no longer prohibitive. Relatively simple, yet flexible programs have been developed which satisfy the needs of everyday business

CONTINUED

3 OF 5

without requiring extensive training or addition of personnel. Probation administrators should plan future budgets to include initial outlay for equipment and ongoing maintenance costs. The larger metropolitan departments should also arrange for transition and training of personnel to process and manage information.

Further information concerning the Comprehensive Data System and purchase of necessary equipment may be obtained through either the local Council of Governments, the projected statewide adult probation service center or the Statistical Analysis Center, Texas Department of Public Safety, 5805 North Lamar Boulevard, Austin 78773 (Phone - 512/452-0331, Extension 39).

I. Basic Information

NAME:	BIRTHDATE:			
BIRTHPLACE:	SEX:	RACE:	HEIGHT:	WEIGHT:
ADDRESS:	EYES:		HAIR:	COMPLEXION:
DATE PROBATED:	DATE PROBATION ENDS:		AGE AT TIME OF PROBATION:	
SUPERVISION STATUS:	COURT ORIGIN OF PROBATION:		LOCATION OF PROBATIONER:	
TRANSFERRING OR TRANSFERRED TO OFFICER:	REASON REVOKED:		REASON DISCHARGED:	
REPORTING WAIVED:	EDUCATION LEVEL:		COURT CASE NUMBER:	

II. Financial Section

NAME:	SOCIAL SECURITY NUMBER:	DATE REPORTED LAST:
PROBATION FEE ASSESSED: (Amt per month)	PROBATION FEE: (Total to be paid during term)	TOTAL AMOUNT PAID TO DATE ON PROBATION FEES:
COURT COST PAYMENTS ASSESSED:	COURT COST: (Total to be paid)	AMOUNT PAID ON COURT COSTS:
TOTAL RESTITUTION TO BE PAID	AMOUNT PAID ON RESTITUTION:	RESTITUTION PAYMENTS:
COURT APPOINTED ATTORNEY	TOTAL ATTORNEY FEES TO BE PAID:	AMOUNT PAID ON COURT APPOINTED
FEES PAYMENTS ASSESSED:	AMOUNT PAID ON BOND FEE (3%):	ATTORNEY FEE:
BOND PAYMENTS ASSESSED:	AMOUNT PAID ON SURCHARGE (\$10):	BOND TOTAL TO BE PAID:
TOTAL SURCHARGE TO BE PAID:	AMOUNT PAID ON SURCHARGE (\$10):	SURCHARGE PAYMENTS:
FINE PAYMENTS ASSESSED:	TOTAL FINE TO BE PAID:	AMOUNT PAID ON FINE:
TOTAL PAYMENTS TO BE MADE: (Monthly)	AMOUNT PAID ON TOTAL ASSESSED:	TOTAL TO BE PAID DURING TERM:
DATES OF CONTACT AND PAYMENT:		

III. PSI and/or Pre-release

NAME:	SOCIAL SECURITY NUMBER:	
EL PASO POLICE DEPT. NUMBER:	EL PASO SHERIFF OFFICE NUMBER:	TEXAS DPS NUMBER:
ADDITIONAL OFFENSES:	ADDITIONAL KNOWN NAMES OR NICKNAMES:	ADDITIONAL CHARGES:
ANNUAL WAGES:	LAST VIOLATION:	MOTION FILED:
MOTION TO DISMISS MOTION:	ADMINISTRATIVE CLOSURE:	REASON FOR ADMINISTRATIVE CLOSURE:
PROGRAM CONDITIONS:	TRANSFERRED DATE:	PSI DATE (Start):
DATE PSI ENDED:	COMPUTER REEL NUMBER:	BEGINNING NUMBER ON REEL:
ENDING NUMBER ON REEL:	CONCURRENT PROBATIONS: (Separate cases and people)	

Exhibit V-A

Computerized Records: Sample of the information obtained with quick access.

Exhibit V-A

Computerized Records: Sample of format for printout

ADULT PROBATION MASTER FILE DATE 03/05/77 TIME 2334 PAGE 0097

CAUSE: 078 RECID: P NAME: , THOMAS

PROBDT: 770215 SUPSTAT: ? MINMONY: RPORTD: PROGCDS:

ENDATE: 780215 OFFCODE: 5203 LASTVIO: 000000 TPOFF: M RPTWAIV: 780215

BRDATE: 571020 SEX: M RACE: A HGHT: *GHT: EYES: HAIR:

COMPLX: SSN: 000000000 EPPDNO: EPSNO: DPSNO:

FBINO: OFFICER: 01 DUPCODE: PICODE: , VIOLATN:

CONTDAT: MTNFILD: HTNDSd: ADMCLSD: REASON:

REVOKED: RREASON: DISCHGDT: 770218 DREASON: P PROBAGE:

COURTID: CC3 JUDGE: FASHING ATTORNY:

ORIGIN: EP LOCATION: EP EDUCLVL: EDUCODE: ALERT: SPCONDPCODE:

PRIORS: ADDOFF1: ADDOFF2: ADDOFF3:

ADDOFF4: ADDOFF5: EMPLYMT: ANUWAGE:

PROBFAS: PROBFPD: PROBTOTPD:

COURTAS: COURTPD: COURTOTPD:

RESTAS: RESTPD: RESTPDTOT:

FINAS: FINPD: FINPDTOT:

ATTFAS: ATTFPD: 150.00 ATTFPDTOT: 150.00-

SURCHAS: SURCHPD: SURCHPDTOT:

BONDFAS: BONDFPD: BONDFPDTOT:

TOTCOSTAS: TOTPD-CUR: 150.00 TOT BALANCE: 150.00-

ALIAS1: 2:

ADRS: ADDCHGS:

BIRTHPL: PHONUM: INVDATE: 000000

TRANSDT: 000000 INVEND: 000000 REEL: 0000 FRBEGIN: 0000 FREND: 0000

CHAPTER 6
COMMUNITY-BASED PROGRAMS, RESOURCES
AND
PUBLIC EDUCATION

- (1) **COLLABORATION**
- (2) **OTHER COMMUNITY CORRECTIONAL PROGRAMS**
(SUMMONS^s RELEASE, POLICE
MAGISTRATE SERVICE, SUPERVISED
PRETRIAL RELEASE, CASH BAIL,
DIVERSION, RESTITUTION AND
AID TO VICTIMS)
- (3) **DEVELOPMENT & MANAGEMENT OF RESOURCES**
- (4) **PUBLIC EDUCATION**

SUMMARY OF RECOMMENDATIONS

- VI.1 Departments are urged to extend their services and help to other criminal justice agencies and to other community programs.
- VI.2 Probation chiefs or their representatives should take part in local and regional criminal justice planning bodies.
- VI.3 Probation departments should take the initiative in planning and developing a wide range of community correctional alternatives for the benefit of courts and of law enforcement agencies. This range of alternatives should include:
- (A) Alternatives to pretrial detention. (These might include daytime release, supervised release, release in the custody of a willing third party, or cash deposit to the court.)
 - (B) Summons program in lieu of arrest and bail.
 - (C) Police and prosecutorial diversion.
 - (D) Half-way houses or community residential treatment centers.
 - (E) Alcohol and drug treatment centers.
- VI.4 Probation departments should designate staff to provide competent and timely information to the courts making decisions about release of defendants awaiting disposition. These staff should supervise and provide services to persons released on their own recognizance.
- VI.5 Courts and probation departments should explore channels by which to extend aid and counsel to the victims of crime.
- VI.6 Probation departments should take initiative in developing formal restitution programs, both residential and non-residential.
- VI.7 Each probation department should canvass the various resources for jobs, services, and volunteers in their communities.
- (A) A current list of all these resources should be maintained.
 - (B) Department needs should be evaluated annually.

- VI.8 Staff should maintain continuous liaison with resource agencies. Referral procedures should be clearly defined and followed.
- VI.9 Departments should be able to budget for the purchase of needed services. This should not be at the expense of other probation department functions.
- VI.10 Departments should define procedures for recording and evaluating their use of community services.
- VI.11 Each department should develop and distribute information describing its purposes and functions.
- VI.12 Departments should define staff responsibility for public education, and should outline a policy for relations with the communication media.
- (A) Each probation officer should undertake to educate the public as part of daily duties, and all professional staff should receive training in this area.
- (B) Departments should outline a plan annually for improving public relations.
- (C) Departments should maintain effective communication with:
- Public and private employers
 - Social service agencies
 - Schools
 - Civic groups
 - Lawyers and judges
 - Labor unions
 - Law enforcement agencies
 - Prosecutors
- VI.13 Probation chiefs should establish and maintain liaison with colleges, universities and other agencies to facilitate research and to share information about the administration of criminal justice. (See also Recommendation IV.4(A).)

Introduction

This chapter places probation in its proper context within a range of correctional programs, service agencies, and the community itself. Probation and, more broadly, community corrections depend upon the integrity of other parts of the criminal justice system, and on the intelligent support of the public whom they serve.

Community-based corrections is still widely considered among criminal justice professionals to be "the most promising means of accomplishing the changes in offender behavior that the public expects--and in fact now demands--of corrections."¹ This premise lies at the heart of the Master Plan for Adult Probation and Community Corrections in Texas. At the same time, this plan is a response to criticism by such groups as the National Advisory Commission on Criminal Justice Standards and Goals that community-based corrections has not in the past been well-organized, planned or programmed: "This task is the challenge of the future."²

Texas's diversity, size and preference for local self-determination leaves the responsibility for organizing, planning and programming sound correctional systems in the hands of local agents. This Master Plan is intended to place in these hands sufficient information and blueprints to institute desirable changes. In some communities the task will still remain to persuade that these changes are, indeed, desirable.

Probation workers and administrators, in particular, should exert leadership in: planning and developing a wide range of community correctional alternatives; and educating the public about the ends, the means and the importance of community-based corrections.

Aims

Each community in Texas should be well-informed about the workings of the criminal justice system, and the important place which community corrections holds in that system. Likewise, each court and all law enforcement agencies should be provided a wide range of community correctional programs that offer a viable alternative to institutional custody of defendants and offenders.

Collaboration

RECOMMENDATIONS

- VI.1 Departments are urged to extend their services and help to other criminal justice agencies and to other community programs.
- VI.2 Probation chiefs or their representatives should take part in local and regional criminal justice planning bodies.

Why should probation undertake initiative and leadership in promoting the aims defined above? As the court's own correctional system, probation spans many functions and reaches into many aspects of the community's self-government. It provides crucial court services, informing sentencing decisions. It provides necessary supervision of offenders to protect the public's interest. It makes use of, indeed depends upon, all of the community's resources and social institutions and profits from a healthy local economy. It suffers if laws are not adequately enforced, or if court business is not well administered. Probation's stake in sound, efficient functioning of the entire criminal justice system is enormous.

Probation workers are logical leaders in improving and overseeing the day to day administration of criminal justice, along with judges, citizens' groups, attorneys, local criminal justice planning committees, law enforcement and court administrators. Perhaps none of these groups, police excepted, are brought into such close daily contact with the problems of individuals whom the court serves, protects and reprimands.

We should insist that the quality of probation's administration be such that probation workers may play a strong leadership role in representing the need for community corrections.

How can all these diverse groups serving divergent interests work best together? What roles are proper to each? While they may be well-defined in theory, in practice they depend largely upon the individuals concerned. Insofar as community corrections is concerned, these roles sort out as follows.

Judiciary: District judges appoint chief probation officers and oversee the administration of probation and other correctional or diversionary programs within their jurisdiction. District judges and county judges recognize problems within their jurisdictions, set others to work on remedying them, and shape correctional efforts through sentencing policies.

Court administrators: Help plan and implement administrative procedures and programs to facilitate the work of the judiciary; coordinate with law enforcement and probation any measures that affect pretrial release, presentence procedures, or enforcement of judicial sanctions.

Probation: Bring problems of a programmatic, procedural or administrative nature to the attention of the judiciary and court administrators; help plan solutions. Supervise and serve probationers; coordinate their service work with that of other community agencies. Engage the public's interest in and sympathy with its work and with the work of other criminal justice agencies.

Law Enforcement: Exercise discretion in making arrests; may choose to handle individuals without arrest and filing of charges.

Councils of Governments and other planning units: Coordinate activities insofar as the use of federal money is concerned; provide technical assistance, information, and an overview of the system's needs.

Citizens groups: Provide support for the work of the police, the courts and community-based corrections; inform other members of the community about corrections activities and needs; support legislative changes; help instigate plans and develop new programs; work as volunteers within the system.

Legislature: See that adequate financial resources are made available and used to support programs that serve and protect the community; provide statutory framework for the sound development of community correctional programs.

If probation departments are to expect recognition within the community, and even within the criminal justice system, they must extend a helping hand and demonstrate willingness to cooperate with the older established criminal justice agencies. If they are to remain vital forces in improving correctional systems, they must take initiative. As the role of the probation department broadens and becomes more vital, new responsibilities must be shown to be necessary to the functioning of the system as a whole. This calls for imagination, intelligence and a willingness to speak out.

It is important that probation's needs be recognized by those planning bodies who make decisions about allocation of funds and coordination of community resources. Probation administrators should have a voice on local and regional criminal justice planning units. They should use their expertise to represent the needs not only of probation, but also of other community correctional efforts.

The effort to develop needed resources and programs is strengthened by cooperative work with other professionals and intelligent citizens. Mustering community support is a

job that calls for all the assistance it can get. Consequently, probation workers and administrators should not be slow to join forces with business groups, service clubs, womens groups, labor unions and others active in community leadership.

Other Community Correctional Programs

RECOMMENDATIONS

- VI.3 Probation departments should take the initiative in planning and developing a wide range of community correctional alternatives for the benefit of courts and of law enforcement agencies. This range of alternatives should include:
- (A) Alternatives to pretrial detention. (These might include daytime release, supervised release, release in the custody of a willing third party, or cash deposit to the court.)
 - (B) Summons program in lieu of arrest and bail.
 - (C) Police and prosecutorial diversion.
 - (D) Half-way houses or community residential treatment centers.
 - (E) Alcohol and drug treatment centers.
- VI.4 Probation departments should designate staff to provide competent and timely information to the courts making decisions about release of defendants awaiting disposition. These staff should supervise and provide services to persons released on their own recognizance.
- VI.5 Courts and probation departments should explore channels by which to extend aid and counsel to the victims of crime.
- VI.6 Probation departments should take initiative in developing formal restitution programs, both residential and non-residential.

Probation is directly and indirectly affected by the efficient and fair administration of justice. Planners for criminal justice standards and goals contend that this last is best satisfied by a wide range of alternatives, at all stages of the pretrial, trial, and sentencing process.

Two areas of particular relevance to this Plan are:

(1) pretrial release and/or intervention; and (2) aid and restitution for the victims of crime.

Evaluation of various innovative bail programs have shown that if bail decisions are made on a more rational basis, a greater number of defendants can be released without risking either the safety of the community or the defendant's failure to show for trial. This is particularly significant to those many jurisdictions in Texas who have experienced serious overcrowding of detention facilities, and civil litigation over these conditions.

Volume I of the Master Plan documented the present state of pretrial release activities around the state. It also reported a notable consensus among criminal justice officials urging reforms to improve the bonding system in Texas. Asked if they would favor reform legislation, 82% of the prosecuting attorneys, 79% of the defense attorneys, and 72% of the JP's surveyed answered "Yes." While opinions about the directions this reform should take varied, it is clear that a small minority are satisfied with conditions as they are now. The measures for improving pretrial practices described here may be useful to individual communities.

Victim counseling and restitution programs fall at the other end of the community corrections spectrum. Both are measures intended to make the system more responsive to those individuals whom it protects and vindicates.

Aid and counseling for victims--the majority of whom are poor and/or ill-equipped to understand the complexities and demands of criminal prosecution--is a new area of responsibility, and one which claims attention and action. Formal restitution programs have also won many advocates. Several such programs around the nation (both residential and non-residential) have shown remarkable success with convicted felons, and have enjoyed excellent rapport with their communities. These ideas are explored below.

In the early 1960's a bail reform movement was instigated with the new Manhattan Bail Project, the first of its kind to provide information to the courts determining pretrial status of accused defendants. The Project's intent was to encourage judicial use of release on recognizance for defendants identified as having sufficient roots in the community to guarantee appearance for trial. This and succeeding pretrial release programs were designed to relieve congestion and delay in the criminal courts, to remove some of the harsh and unnecessary restrictions placed on defendants awaiting trial, to reduce overcrowded jail populations, and to mitigate disparities in traditional surety release procedures.³

Study of the surety bail system has made several things clear. Bail bond costs, for example, vary considerably from one jurisdiction to another, with premium rates ranging from 5% to as much as 20% of the face amount of the bond.

Bondsmen exercise considerable discretion in accepting clients and in collateral requirements for each bond. The defendant's prior record and the nature of current charges seem to have most bearing on the prosecuting attorney's recommendation for bail. Also, a close association undoubtedly exists between the custody status of defendants before trial and the ultimate disposition of their cases, although a direct cause-effect relationship has not been conclusively proven.⁴

In the 15 years since the Manhattan Bail Project's inception, marked increases in the proportion of defendants who obtain pretrial release or release on nonfinancial conditions have been observed. It seems clear that the advent of formal pretrial release programs has played an important part in encouraging these changes. In 1976, 134 pretrial release or intervention programs were identified around the nation.⁵ Research has provided at least a preliminary assessment of the advantages, costs, and criteria for successful programs. Three key elements necessary to any effective pretrial release system would seem to be: a fact finding capability that enables speedy discharge from custody of those who are going to be released; adequate sanctions to deter released defendants from skipping scheduled court appearances; and speedy trials, in order to minimize the period of release.

Evaluation of existing pretrial release programs has shown them to be easily implemented. They are unobtrusive

and do not disrupt routine processing of cases. They do not seek the release of all defendants as a matter of right, nor do they challenge the use of money bail.⁷ An opinion poll of criminal justice officials undertaken in 1974 for the National Center for State Courts showed that more than 90% of the respondents felt that pretrial release programs improved the functioning of the criminal justice system in their jurisdiction. Ninety-two percent of them indicated that they generally favored the operation of such programs.⁸ (Responses are reproduced on the opposite page.) In Texas, a similar feeling that this is an appropriate direction for most jurisdictions to follow was recorded by the Master Plan survey. When asked whether a personal bond or release on recognizance program should be established where one does not already exist, 79% of the probation officers and 70% of the prosecutors responding said "yes," and 66% of the justices of the peace concurred.

At least seven distinct approaches to improving local pretrial release practices have been identified and developed around the country. These are:

- (1) Using summons release programs.
- (2) Providing immediate judicial determination of bail on a 24-hour basis.
- (3) Improving the fact-finding mechanisms to know more about the individual circumstances of the accused.

Attitudes Towards Pretrial Release Programs

TABLE VI-A

In general, how significant a contribution do you feel that the pretrial release program (with which you are most familiar) is making to the fair and effective functioning of the criminal justice process in your jurisdiction?

<u>RESPONSES</u>	<u>JUDGES</u>	<u>COUNTY EXECS.</u>	<u>PUBLIC DEFENDERS</u>	<u>DISTRICT ATTORNEYS</u>	<u>POLICE CHIEFS</u>	<u>SHERIFFS</u>	<u>COMBINED</u>
Improves it very signif- icantly	79%(19)	70%(14)	57%(16)	54%(14)	28%(8)	59%(17)	56%(88)
Helps somewhat	17%(4)	25%(5)	36%(10)	42%(11)	59%(17)	31%(9)	35%(56)
Makes little difference	4%(1)	4%(1)	4%(1)	4%(1)	10%(3)	-	4%(7)
Overall effect is negative	-	-	4%(1)	4%(1)	3%(1)	10%(3)	4%(6)
TOTALS	100%(24)	100%(20)	100%(28)	100%(27)	100%(29)	100%(29)	100%(157)

TABLE VI-B

Generally speaking, would you describe yourself as favoring or opposing the operation of pre-trial release programs?

<u>RESPONSES</u>	<u>JUDGES</u>	<u>COUNTY EXECS.</u>	<u>PUBLIC DEFENDERS</u>	<u>DISTRICT ATTORNEYS</u>	<u>POLICE CHIEFS</u>	<u>SHERIFFS</u>	<u>COMBINED</u>
Generally in favor	92%(22)	95%(20)	100%(28)	93%(27)	84%(27)	88%(29)	92%(153)
Undecided	4%(1)	5%(1)	-	7%(2)	13%(4)	9%(3)	7%(10)
Generally opposed	4%(1)	-	-	-	3%(1)	3%(1)	2%(3)
TOTALS	100%(24)	100%(21)	100%(28)	100%(29)	100%(32)	100%(33)	100%(163)

From Robert V. Stover and John A. Martin, "Results of a Questionnaire Survey Regarding Pretrial Release and Diversion Programs" in National Center for State Courts, Policymakers' Views Regarding Issues in the Operation and Evaluation of Pretrial Release and Diversion Programs: Findings from a Questionnaire Survey (Denver, Colo., April 1975).

- (4) Institutionalizing release on non-monetary conditions.
- (5) Instituting a system of cash bail.
- (6) Improving the present money bail system.
- (7) Accelerating the trial process.

Some communities in Texas have already experimented with one or even several of these reforms. Others have not. Following are brief descriptions of each, and discussion of their implementation.⁹

(1) Using summons release programs in lieu of arrest and detention.

Under the provisions of the summons release program, police officers or magistrates issue summons or citations, which indicate the time and date when the alleged offender must report for his court hearing. This process is analogous to the one used in the handling of most traffic offenses.

The summons program, by providing an alternative for police to the arrest and bail process, can effectively reduce expenditures for law enforcement and pretrial detention, and can free police manpower for more important functions. Several jurisdictions in Texas have begun to issue summons for petty misdemeanors other than traffic offenses and violations of local ordinances.

This program requires an interviewer at the police station or sheriff's office, who administers a questionnaire that will help determine whether an alleged offender has roots in the community, and hence is likely to appear voluntarily in court at a later date. Questionnaire responses are screened objectively on a weighted point scale (a sample

investigative form is reproduced as Exhibit VI-A at the end of this chapter). The investigator verifies this information, conducts a police records check and recommends issuance of a summons to the desk officer or sheriff. The only cost for this program is for an interviewer, desk space and use of telephone to accommodate the process. In some well-defined instances, the issuance of summons or citations can be extended into the field (this is done now for minor marijuana possession charges, for example). It has been estimated that a summons process could save approximately 10 hours of police time, since the arresting officer does not have to wait for a van, accompany the prisoner to court, linger in the complaint room and possibly wait for arraignment.¹⁰ It would also offer savings from overtime pay for the arresting officer.

(2) Providing immediate judicial determination of bail on a 24-hour basis.

Rapid decisions on bail can be reached by operating "night courts," an arrangement particularly well suited for large metropolitan areas where the high volume of offenders more than offsets the expenses involved. Smaller communities can provide "on call" arrangements with magistrates or bail commissioners who can be called upon as the need arises.

Police or night magistrates already operate in several large Texas cities (Austin, San Antonio, and Dallas, for example). Under this system alleged offenders may be taken before a magistrate immediately after apprehension, thus providing quick diversion from temporary detention. Most misdemeanants may be processed by such a court. Cases of insufficient evidence may be dismissed. Or, cases may be

heard, and defendants found not guilty may be dismissed, while defendants found guilty may be sentenced or await pre-sentence investigation by the probation department. Moreover, where sufficient evidence of an offense is shown to require action by a higher court, the magistrate court may decide upon summons, conditional release, release on own recognizance, or bail. Around-the-clock police magistrate service has been acclaimed as "one of the most effective and comprehensive screening programs a community can provide."¹¹ It can mean that:

...only a few alleged offenders are funneled into the correctional system, thereby holding down pretrial detention to an absolute minimum. While such arrangements are generally in existence in metropolitan areas, few county criminal courts provide such services. However, if we consider the reduced space requirements and subsequent savings to the community as well as fewer exposures of citizens to the jail system, the availability of a 24-hour magistrate service seems well warranted. Among the benefits accruing to the community are savings of money, maintenance of citizens' self-respect, undisrupted family ties, and undisrupted jobs.¹²

More Texas communities should benefit from these services.

(3) Improving fact-finding mechanisms.

Better knowledge of an individual's circumstances will lead to a more rational determination of an individual's eligibility for bail or for alternatives to bail, such as release on own recognizance programs, etc.

All of the programs briefly described here call for better information about defendants. The cost of personnel to investigate and make recommendations to police or magistrates regarding release of defendants would be balanced by savings in detention costs, in welfare payments, and by increased efficiency of the system.

In order to provide financial and other information to the court, probation's court services would probably best be expanded to encompass brief pretrial or prehearing investigations. Each investigation would take an average of one to two hours.

(4) Institutionalizing release programs based on non-monetary conditions.

Examples of such programs are daytime release, supervised release, and release in the custody of a willing third party.

A supervised release program uses special probation officers to supervise selected defendants who can not post bail and who meet well-defined criteria. The probation department is notified when a defendant is taken into custody. If the individual consents to a background inquiry, he completes a personal inventory and is then interviewed to determine community stability. The probation officer who recommends release also recommends frequency and method of contacts for the defendant.

It is recommended that probation departments designate staff to: (1) provide competent, relevant and timely information to courts making release decisions; and (2) provide necessary supervision and services to defendants released on their own recognizance. It should be emphasized, however, that supervision is not necessary for most defendants released on their own recognizance. Formal supervision programs should not be used (as they seem to have been in some places) merely to extend control over defendants who

would otherwise clearly qualify for release on own recognizance. They should rather be used for marginal risk candidates who would otherwise be detained.

Release in the custody of a third party obviates involvement of the probation department or any other agency. Instead, a willing (private) third party assumes responsibility for the defendant's appearance in court. Ministers, businessmen, employers, landlords, union leaders, and attorneys could volunteer to be third party. One person or agency would be identified to coordinate referrals. Some programs releasing defendants into the custody of their attorneys have met with success, although a situation in which a lawyer actually stands surety for his client does raise some ethical problems.

The third conditional release program is daytime release. It is operated out of the jail in the same manner that daytime release programs operate for convicted offenders; the two may be coordinated. A detained defendant may continue to work, returning to the detention facility for the remainder of the time and at night. Maintenance of jobs and of family and social ties are among the benefits of such a program. In large jails this would require supervising staff.

(5) Instituting a system of cash bail.

Under a cash bail system, a defendant deposits directly with the court a small amount of cash or securities in lieu of executing an ordinary bail bond. Once he has made his appearance before the court, the deposit is returned with the execution of a small service charge used to defray court expenses. The cash bail system has the definite advantage of eliminating the bondsman as the middleman, and helps reduce, in addition, the financial

loss to the defendant who lives up to his obligations. Also, if cash bail may be posted at police stations, immediate release is facilitated. Lastly, the deterrent value of this system is believed to be greater since the money deposited either belongs to the defendant or to his friends or relatives, thereby providing greater incentives to strive for its return.

Both Illinois and Oregon have established systems of cash bail deposit with the court which completely eliminate commercial bondsmen. In Illinois defendants deposit 10% cash of the bail amount. Most of this is refunded when the case is closed, with only a small fee (usually 10% of the amount deposited) retained to underwrite cost of the program. The state of New York also offers such a program, in addition to the traditional bail bond. Indications so far are that this program does not pose substantial cost to administer. Texas's personal bond statute (Article 2373p-2, TACS, enacted in 1973) is akin to these. Many communities have not yet established personal bond offices, however,

(6) Improving the present money bail system.

Since the money bail system is based on the premise that bail should be set solely to assure the probability of a defendant's appearance for trial, any and all potential deterrent factors in his personal and social milieu should be considered. Such an assessment would, of course, include information on his financial circumstances as well as his ability to pay. As a result, bail bond should be set in accordance with the defendant's income and his ability to raise the required amount.

In Texas several reforms have already been directed at the commercial bail bond system, the chief one licensing bondsmen in communities of over 125,000. This move has created incentive among metropolitan bondsmen to clean up their practices at the risk of losing their licenses, and it

could well afford to be extended to all communities. Since the law was passed in 1973, the number of commercial bondsmen operating in Texas has dropped. In communities where personal bond programs do not yet operate, however, some of the inequities and abuses apparent in the commercial system continue. Other jurisdictions have spelled out their own local criteria for granting bond. However, no broad guidelines presently exist for the manner in which bail bond should be set, and for whom it is appropriately used.

Other states have legislated principles for setting bond which do not hamper, but merely guide the discretion of magistrates. New York state law, for example, provides that "the kind and degree of control or restriction that is necessary to secure the defendant's attendance in court" will be an overriding consideration in granting release on recognizance, and delineates certain factors to be employed by the court in making this determination.¹³ These are:

- (1) character, reputation, habits and mental condition;
- (2) employment and financial resources;
- (3) family ties and length of residence in a community;
- (4) criminal record;
- (5) previous record in responding to court appearances;

- (6) weight of evidence against him in pending criminal action; and
- (7) the sentence which may be imposed upon conviction.

No such criteria have yet been legislated in Texas, and this possibility might be studied. Further statewide uniform training for JP's, police and sheriffs regarding risk factors and bail's purposes may be in order.

(7) Accelerating the trial process.

Provisions for speeding up court procedures can be linked to legislatively predetermined time limits, during which prosecution must take a case to trial or else drop the charges. In addition, periodic reviews of bail for detained defendants can be established by the judiciary, with the option of either lowering bail requirements or advancing the trial date.

The Federal Speedy Trial Act of 1974 (H.R. 17409, S.754) set the precedent for such reform. It provides by 1979 for a maximum period of 100 days between arrest and trial of defendants under federal court jurisdiction. It provides at the same time for the creation of:

...administrative pretrial service agencies that would function to collect and verify information pertaining to eligibility for release; recommend conditions of release; supervise released persons; operate facilities for releasees including half-way houses, narcotics and alcohol treatment centers and counseling centers; and provide social and employment assistance.¹⁴

Speedy trial legislation has also been passed by the 65th Texas Legislature (S.B. 1043, Regular Session), but without any attendant service agencies. It allows defendants the

right to have charges dismissed if prosecutors are not ready for trial within 120 days from arrest in felony cases (slightly less in misdemeanor cases). Should the defendant be jailed, then he must either be brought to trial or else be released on bail after 90 days. This law leaves several loopholes, however, is vague about computation of time, and does not solve the problem of court backlogs, however ready prosecutors may be to move on cases. It is unclear as yet how far this piece of legislation, which takes effect July 1, 1978, will go toward speeding up the trial process and making justice more swift and certain.

Pretrial "diversion" or "intervention" programs have enjoyed a more qualified success around the country than have the programs described so far. Diversion programs share many of the aims of other pretrial release programs, but they take on the additional goals of case screening and rehabilitation, providing remedial services at the pretrial stage. The distinction between the two is summarized well in the following passage:

The basic feature that distinguishes formal diversion from other pre-trial release alternatives is the use of deferred prosecution as an incentive for the successful completion of the pre-trial period. In eligible cases, prosecution is delayed for periods ranging from three months to one year; contingent upon satisfactory pre-trial performance (no arrests and/or cooperation with a rehabilitation program), defendants are rewarded with the possibility of a dismissal of pending charges. Often regarded as a method of standardizing traditional discretionary diversion practice, formal diversion programs generally incorporate specified eligibility criteria, a treatment regime, and the opportunity to monitor and control the decision not to prosecute. The goal is not to ensure appearance in court, but rather to avoid the necessity for continued court intervention.¹⁵

Another distinction is sometimes drawn between "diversion," which implies the removal of minimal risk cases from overloaded case dockets, and "intervention," which involves treating defendants who presumably represent a greater level of risk to the community and who require special services as a result. One strategy chooses the defendants who are least likely to recidivate while the other chooses defendants whose criminal careers might be influenced and put to an end by intensive corrective strategies and services.¹⁶

A monograph providing resource materials on adult pre-trial intervention programs (commissioned by LEAA) was published in 1975 under the title, "The Dilemma of Diversion." This monograph reviews available research and literature on diversion, exposing several "dilemmas." To begin with, diversion's critics fear that: "in responding to the 'crisis of over-criminalization' diversion programs have simply created a parallel structure that maintains and extends official control over the accused."¹⁷ Although original program objectives described the simple removal of minimal risks from the court and the treatment of higher risks, more often these programs have tended to divert and deliver services to lesser risks, still excluding higher risks from treatment or "intervention."¹⁸

In light of the fact that some programs do not function effectively as alternatives to incarceration, they seem to pose fairly expensive alternatives to traditional prosecution

and probation (although this, of course, varies with the breadth of the program: figures mentioned range from \$65 to \$1,388 per case). The monograph's author notes that if these programs:

...were truly functioning as alternatives to incarceration, justifying the expense would not be difficult. The evidence available indicates, however, that in the absence of a diversion alternative, few project participants would have faced a jail sentence.¹⁹

Yet another controversial issue regarding the administration of deferred prosecution programs is the implicit presumption of guilt that accompanies the diversion procedure, particularly where diversion is directly sanctioned by the prosecutor. Although a guilty plea is usually not imposed as a condition for diversion (and the ABA indicates that it should not be), it is practically impossible for diversion programs not to attach the implication of guilty to their accused (but unconvicted) participants.

In sum, the most cogent statement of diversion's position in the broad movement to remedy some of the ills of the criminal justice system may be this one:

Admittedly, the risks associated with diversion may quickly pale in contrast to the limitations and inequities clearly visible in viewing the traditional administration of criminal justice. Yet it is precisely due to those difficulties that diversion schemes evolved. Ironically, in attempting to circumvent these basic system deficiencies, a new system with its own attractions and deficiencies has begun to mature without furnishing convincing evidence that it has seriously affected the basic problems that attend the pre-trial criminal process.²⁰

In view of this conclusion, more fundamental reforms are suggested to meet the various expectations currently placed on pretrial diversion efforts. These include:

- (1) implementation of procedures to ensure speedy trials;
- (2) improved methods to expunge arrest and conviction records;
- (3) criminal code reform to decriminalize a variety of victimless crimes and minor misdemeanors;
- (4) development of early diversion options, including police diversion, police-community affairs officers, citizen dispute mediators, or volunteer restitution agreements;
- (5) experimentation with more comprehensive non-diversionary release strategies and with community-oriented sentencing alternatives; and
- (6) expanded probation resources.

Speedy trial legislation, (1), was touched upon already. Other measures to accelerate the disposition of cases should be identified by the State Bar and instituted. Texas has also taken one step toward expunction of arrest records, (2), with legislation passed by the 65th Legislature (Regular Session). The procedures provided by S.B. 471 are unwieldy, however, and it is likely that only with more comprehensive information systems will expunction become a realistic and effective procedure.

Again, much literature has been devoted to the desirability of decriminalizing such crimes as disorderly conduct (3, above). Given the burden these laws place upon law enforcement agencies there would seem to be much merit in modification of criminal court responsibility through proper legislation.

Citizen dispute mediators, (4), use trained law students to resolve citizen complaints and criminal bad-check cases through brief administrative hearings. One such program has been made an exemplary project by LEAA and is described in detail by a monograph readily available from the Government Printing Office (Citizen Dispute Settlement: The Columbus Night Prosecutor Program, Washington, D. C.: LEAA, 1974).

The fifth suggestion, for comprehensive release strategies and community correctional alternatives, refers to such projects as those developed for Iowa's 16 county Fifth Judicial District in Des Moines. This jurisdiction has instituted a range of community programs, from conventional pretrial release, release with supportive services, and probation work, to a residential work and educational release alternative to jail for convicted felons. Evaluation of this system, also designated an LEAA exemplary project, shows it has had considerable success in diverting defendants from pretrial detention and diverting convicted offenders from incarceration.²¹

The final suggestion, that resources which might go towards experimental diversion programs be used instead to upgrade probation services, may offer "the most direct solution possible," certainly for communities where probation still does not provide services to the court or to probationers. Sound probation practices should be a priority.

Nonetheless, a few isolated diversion programs have, for minimal cost, succeeded in diverting selected first offenders from full criminal prosecution and most of its social and economic consequences. In Wichita and Hale counties, for example, such programs have been developed employing a voluntary board of citizens, attorneys and prosecutors to screen qualified applicants. Admission to the program involves supervision by the probation department for a designated period of time, and fulfillment of a performance contract, after which charges against the defendant are withdrawn. No new staff are necessarily required by the program, so that its expenses are minimal.

At the other end of the spectrum of programs with a correctional intent are specialized residential and non-residential rehabilitation and treatment programs. In our survey of services around the state, the need for residential, controlled settings for certain high-risk probationers emerged a high priority. These programs, like those for pretrial intervention, enjoy varying degrees of success and relative cost/benefits. The State Board of Pardons and

Paroles have established regulations for half-way houses with whom they contract for purchase of residential parole services to insure a certain standard of care and control. The National Commission on Accreditation for Corrections, with the help of the American Corrections Association, has developed and published just this year a Manual of Standards for Adult Community Residential Services (Rockville, Maryland: April 1977, 46 pages). Standards cover both public and private agencies operating half-way houses and pre-release centers. Consideration should be given to statewide adoption by probation departments of these or comparable standards for all residential programs used for adult probationers. This measure will have to be accompanied by another just as important, however--a greater allocation of funds for the development, staffing and maintenance of community facilities.

Community residential treatment centers have been designed around various primary objectives: provision of vocational rehabilitation; treatment of narcotics or alcohol addiction; peer group counseling and family counseling; and most recently, residential restitution programs. This last type of program diverts eligible offenders to a residential program in which all monies earned from jobs go toward reparation for damage or loss caused by the offense. A model has been developed by the Georgia Department of Corrections/Offender Rehabilitation.²² The program is intended not for felons who would otherwise be placed on probation and restitution ordered, but

rather for felons who would otherwise be incarcerated and from whom no restitution could therefore be expected. Participation in the program is made a mandatory provision of probation.

Program staff assist the resident offender in locating and maintaining steady employment. They also help him develop a reasonable money management plan. Pay checks are budgeted for restitution payments, family support, room and board, self-support expenses, and savings, and the offender draws against each of these accounts on a regularly scheduled basis. Throughout residence, staff provide close surveillance of each offender's behavior and activities. Home visits on alternate weekends are possible for residents who satisfactorily participate in the program. The traditional counseling and volunteer services are also used.

Sometimes the probationer is required to reside at the restitution center until the total assigned restitution has been paid. Usually, however, the probationer who has demonstrated adequate stability and responsibility over several months is released, and completes restitution payments on a supervised non-residential basis.

Probationers may also be required to perform unpaid community service restitution, either in lieu of or in addition to financial restitution. The Georgia programs have placed probationers to work:

...in mental hospitals and health centers, repairing the houses of aged pensioners to prevent their condemnation, working with children in the recreational programs of church and youth organizations, assisting in volunteer counseling with juvenile offenders, doing charity work, and conducting community cleanup projects. 23

This feature of the program emphasizes that every offense is felt by the community as a whole, and instills in offenders a sense of direct responsibility for its members.

Community response to the restitution program in Georgia is reportedly enthusiastic. Citizens support the concept of offenders working constructively, paying taxes, and partially defraying the cost of their own rehabilitation. The Georgia programs have been able to make use of many community facilities and resources to enhance the programs at little or no cost.

Naturally enough, this type of program depends upon success in finding jobs with a high enough earning power to make restitution payments. In order that the program should make itself cost effective, the turnover rate cannot be too slow and the number of failures cannot be too high. Eighty-four percent of the offenders accepted by the Georgia program have been felons and the remaining 15% misdemeanants. Virtually all offenders have been nonviolent property offenders posing marginal risk. Success so far has been close to 60% (probation and parole cases combined).

Restitution has been used as a condition of probation in Texas for years. However, as pointed out elsewhere in this report, the amount of restitution collected and distributed by probation departments is small in comparison with other financial costs and sanctions (supervisory fees, court costs, court-appointed attorney costs, and fines). In 1975 approxi-

mately \$1 million was collected around the state from probationers. It is our feeling that a larger emphasis should be placed on financial restitution to the victims of crime.

The State of Colorado has been experimenting since March 1976 with a "systemwide" restitution approach involving probation, community placement, local work-release, institutions and parole.²⁴ Some of the program's objectives include (1) establishment of a systemwide accounting capability to track the amounts of restitution assessed, paid and outstanding; (3) placement of probationers in "service restitution" settings; (3) enrollment of other, unemployed probationers in work/restitution programs; (4) integration of restitution components into county work-release programs; and (5) provision of specialized job counseling and placement for offenders. Judges, probation administrators and other planners involved in the corrections process should follow the progress of the Colorado program, and consider whether a comparable demonstration effort would be feasible for this state.

There is a growing interest in victim compensation by which the state assumes responsibility for payment of monies. Restitution programs would be far more manageable from an administrative point of view and profitable from the point of view of the offender and the courts; they should certainly be integrated into any system of state compensation. They pose useful means of making the system more accountable to the citizens it serves.

The final piece in the array of programs relevant to community corrections is victim counseling and aid. Victims are too often forgotten members of society. Most victims of crime are poor and elderly. They are people with resort to few means for remedying the wrong done to them. They are likewise ignorant of the criminal justice process, the role which they will be asked to play, and the sanctions which might legally be applied for the offense. Often they do not see how the criminal justice process responds to their needs.

A relatively recent interest has been shown by bar associations and citizen groups around the country in programs to provide victims assistance and advocacy. A few model projects have been funded by LEAA; others are in the developmental stages.²⁵ These programs are intended to act as "ombudsmen" for crime victims. Some rely heavily on volunteers and/or paralegals to minimize project expenses. Services they typically provide include: counseling; referral to agencies who can provide specialized help (family services, welfare organizations and prosecuting attorneys, for example); advice on small claims and insurance matters; crisis intervention; and advice regarding private criminal complaint cases and restitution. The program seeks to establish itself with the help of police agencies, community and civic groups, and public advertisement of its services. Staff regularly review police reports to find out about victims who may need assistance, and respond to direct inquiries.

In light of growing support nationwide for state compensation to the victims of crime, and the potential to show government more responsive to the needs of the governed, local communities are urged to look into possible program structures that would provide the services listed above at a reasonable cost to the community. Probation departments in particular could lead community support to plan and find funding for victim services.

Development and Management of Resources

RECOMMENDATIONS

- VI.7 Each probation department should canvass the various resources for jobs, services, and volunteers in their communities.
- (A) A current list of all these resources should be maintained.
- (B) Department needs should be evaluated annually.
- VI.8 Staff should maintain continuous liaison with resource agencies. Referral procedures should be clearly defined and followed.
- VI.9 Departments should be able to budget for the purchase of needed services. This should not be at the expense of other probation department functions.
- VI.10 Departments should define procedures for recording and evaluating their use of community services.

"Community resource management" and "service brokerage" have become standard jargon in the probation worker's professional language. Management consists of developing needed programs and making the best use of all available services, people and material resources. There are undoubtedly jurisdictions in this state in which a fairly adequate system of human services are available to probation officers and probationers. Then again, there are other jurisdictions in which services are negligible and opportunities for probationers extremely restricted. These latter jurisdictions must use imagination to find every vehicle through which resources in

other communities may be shared, and must work with other professionals to bring state-level attention to their needs.

For those departments with access to a variety of services and community resources, however, this Plan can suggest ways of managing them to fullest advantage. A list that could be used by probation workers to assess present use and needs for services was supplied in Chapter 3 (p.150).

As the idea is used here, however, community resources embrace an even larger set of activities. Resources include (perhaps most importantly) employment opportunities for probationers, and businesses willing to sponsor apprenticeships or vocational training. They include volunteers willing to work with individual probationers or with aspects of department operations; places where emergency food, clothing, shelter or other forms of charity may be obtained; civic groups able to help educate the community about corrections or to raise money for special projects; and free media spots.

Departments in metropolitan areas should make use of directories of human service organizations and referral services. Statewide directories of funded programs may be had from such agencies as the Department of Mental Health and Mental Retardation, the Commission on Alcoholism, the Texas Education Agency, and the Drug Abuse Division of the Department of Community Affairs. Departments should see that all such directories are kept current as far as possible, and that field staff are acquainted with them.

A major snag encountered with using community programs in the past has been the inability to purchase needed services for probationers. Most specialized human service agencies receiving government funds are under financial pressure to require fees from clients (being underfunded themselves). Departments are therefore hampered in their freedom to make referrals and provide therapy, residential services, professional diagnoses, or vocational training. If rehabilitation is to remain one of the primary goals of probation, this cannot continue.

Each department should have a budgeted amount of money available to purchase specialized services that can be reasonably justified. Money designated for this function should not have to detract from salaries or other department functions, but should be acknowledged as an important ingredient in any functional budget. In determining how large this budget should be each department will, again, have to rely upon a thorough needs assessment.

As was suggested in Chapter 3, each probation system needs to specify goals for the delivery of services, and measurable objectives based on priorities and needs assessment. Those services which should be provided by another agency, but are not, will require mutual attention and planning. Departments should maintain formally-structured liaison with other service agencies to explore mutual objectives. In small departments this will necessarily be handled by probation

chiefs. In larger departments this will probably be done best at a supervisory level, designating specific responsibility for particular services or agencies to one or two individuals. In this manner all services, and the procedures by which to get at those services are readily available to each staff member.

A second problem evident across most jurisdictions using community service programs is coordinating for efficient delivery of services. One promising approach to this problem is that of the Community Resource Management Team, an experimental model presently used by the West Texas Regional Probation Department. This approach tries to remedy four problems inherent in most of the present service delivery areas:

- Frequently individuals and families seeking services from community agencies have multiple problems requiring services from more than one social agency.
- The organization of services into narrow categorical units tends to fragment resources needed by multiple-problem families.
- Agencies tend to plan and operate their respective programs in isolation from each other. Consequently, there is minimal effort to facilitate interagency collaboration and referral.
- Professionals in the social service system do not take leading responsibility for coordinating and integrating resources in response to client needs, ²⁶

Some of these ills, it is hoped, could be remedied with the use of community social service teams comprising both probation workers and representatives from other agencies in

the community. Training provided these teams is designed to help workers:

- (1) clarify social agency policies;
- (2) define professional roles, their potentials and limitations;
- (3) elaborate the roles of nonprofessionals;
- (4) establish methods for determining agency participation in service to multiple-problem families;
- (5) develop procedures for eliminating duplication of services; and
- (6) develop procedures for identifying and filling gaps in service.²⁷

The department's needs assessment is structured to analyze entire case loads. A standardized matrix is used to assess each probationer on a given case load in eight areas of need, along a five point scale. This matrix, reproduced on page 323, indicates where the greatest service needs are. Two "service delivery analysis" forms used by the West Texas Regional Probation Department's Misdemeanor Court Service Project are also appended at the close of this chapter for perusal. Instead of emphasizing direct counseling and surveillance of probationers, probation officers work with other service agencies who do the bulk of this job. Staff monitor and evaluate services to which probationers are referred to insure that they are meeting specified objectives.

In general, then, probation departments who are not already doing so, should emphasize achieving client objectives through the many resources which exist in most communities. At the same time, because these resources are limited and precious, it is important that department planning insure that: (1) they make themselves accessible to the appropriate clients; and (2) they deliver the services needed. Statewide training should focus on such areas as program development and coordination of services at the local level.

(4)

Public Education

RECOMMENDATIONS

- VI.11 Each department should develop and distribute information describing its purposes and functions.

Smaller departments should be helped in this by other probation departments, by a state service center and by professional organizations.

- VI.12 Departments should define staff responsibility for public education, and should outline a policy for relations with the communication media.

(A) Each probation officer should undertake to educate the public as part of daily duties, and all professional staff should receive training in this area.

(B) Departments should maintain effective communication with:

Public and private employers
Social service agencies
Schools
Civic groups
Lawyers and judges
Labor unions
Law enforcement agencies
Prosecutors

- VI.13 Probation chiefs should establish and maintain liaison with colleges, universities and other agencies to facilitate research and to share information about the administration of criminal justice. (See also Recommendation IV.4(A).)

The public generally has little understanding of probation as a disposition, status, system or process. Although much has been done in the area of public education nationally during the past ten years, the conditions reported by Newman in 1958 still obtain:

The terms 'probation,' 'parole,' and 'pardon' have meanings and usages which can be separately defined and identified. In the public eye, however, they are used interchangeably, and unfortunately quite frequently with the connotation that the law violator is being allowed to 'get away' with something. 28

This confusion of functions is general; it does not limit itself to the general public, but persists among county officials, legislators, academics and others with a vital interest in probation's impact on the community.

For the Master Plan survey (Volume I of this report), probation chiefs were asked: "How does the community as a whole regard the idea of probation and the services provided by the probation department?" Only 46% of them hazarded an answer. The gist of their comments are summarized here:

In favorably disposed communities the public is made to understand that probation's function is to help the offender become an asset to his community. But some communities, slow to change, view probation with suspicion or as a tool for the court's leniency. Hostility and suspicion are usually a function of ignorance and misinformation. (Q1, #101.)

Prosecutors were asked the same question, and divided equally in assessing a favorable or an unfavorable attitude in their communities (Q5, #48). Those defense attorneys who regarded their community's attitude as favorable, however, were a

decided minority of 22%, and had this to say:

Being poorly informed, the community's response varies from apathy or skepticism to occasional hostility. This would alter if the facts were presented. (Q6, #46.)

All three groups were strong in affirming that something should be done to change the public's image of community-based corrections.

It seems clear that the probation department's

- (1) visibility and active involvement in the community, and
- (2) relationship with the local judiciary it serves, shape local opinion about the justice and efficacy of the probation sanction. The public needs to be informed that probation is a sanction, and to understand the protection afforded the community by those conditions under which it is imposed and enforced. Only effective and active probation departments willing to extend themselves through vigorous public education programs (and to develop job opportunities and services for offenders thereby), can change these attitudes.

The public's attitudes toward probation and community correction affect prosecuting attorneys' willingness to recommend probation and to lend community programs their full support since the district attorney, in representing the state, represents them. These attitudes also affect the decision making of trial judges in subtle as well as explicit ways. Individual probation departments must take the initiative to work with judges, with prosecuting attorneys and with community leaders to increase probation's credibility.

Suggestions by probation chiefs around the state for ways to change a community's image of probation--and of community-based corrections more broadly--include the following:

Educate elected officials about the purposes of probation; develop greater political support, both locally and at the state level. Inform the public, and actively provide opportunities for community involvement. Use intensive public media advertising. Standardize probation statewide.

"We need to stop selling probation as a social work exercise and to talk more about it as a community-based corrections concept with all the controls necessary to retain a realistic program." (Q1, #102.)

In view of these conditions and feelings, this Master Plan makes public education a high priority in its overall goals and objectives and urges each individual probation department to do the same.

Public education is a function that naturally pays off. It can be handled so as to encourage citizen participation as volunteers within departments, to spread the good word about individual success stories, and to make citizens aware of the complexities of criminal justice and the immense difficulty of instituting the broad, comprehensive changes that are known to be desirable. It can be used to advertise the needs of certain classes of offenders, and can spark activity to find ways of meeting those needs. Department administrators should make and maintain contact with leaders of civic groups, labor unions, bar associations, and the business community. They should seek opportunities to speak publicly about their programs and needs. They should use the public media to do the same thing through news releases, appearances or public service advertisements.

Each department should develop and distribute information describing its purposes and functions. This can be done with a minimal investment of time, effort and money. Several probation departments now reproduce brief pamphlets that are distributed to new probationers, explaining in simple language what probation is and what the conditions of probation will require. In communities with a large Mexican-American population, such informational pamphlets should be bilingual. A second brochure could be used for volunteers, other service agencies, and interested citizens to briefly outline the history of probation and its advantages to the community. Departments who would desire help in this should consult other probation departments, voluntary action centers, or the proposed state service center.

Public education should not, however, be the duty solely of the probation chief. All probation officers meet the public in executing their daily duties. All should be prepared to represent the department's work effectively and intelligently.

As for other department functions, so too for public education an annual plan should be outlined. This plan should set out measurable tasks and objectives, and should identify who is responsible for meeting them. It can then be used as a guidepost to measure department performance.

A specific recommendation is made regarding relationships between departments and colleges, universities and other agencies to facilitate research and to share information about

the administration of criminal justice. This recommendation is vital, since one of the major factors inhibiting effective development of community corrections has been a lack of reliable information about specific programs and about entire correctional systems. Probation workers and academics have much to offer one another; both will profit by closer, more lively associations.

Sample Summons Investigation Report

SUMMONS INVESTIGATION REPORT Date _____ Number _____

Statement to Be Read to the Defendant: The crime with which you are charged may be processed in one of two ways: First, you may be detained until your court appearance and then possibly be held in bail. Second, by furnishing certain information concerning your background, employment and family, you may be found eligible for the issuance of a summons, in which case you may leave here today and return to court on your own on a specified date within the next three weeks. None of the questions you will be asked concern the crime with which you are charged. If you agree to be interviewed, you authorize the Police Department to verify the information by calling persons named by you as references.

ACKNOWLEDGEMENT OF DEFENDANT: I hereby consent to (Signature of Defendant)
interview and verification
of the information given. _____

Date of Arrest _____ Time _____ A.M. _____ P.M. Location of Arrest _____

Within Precinct No. _____.

Arresting Officer: Rank/ Title _____ Name _____ Shield Number _____

Command/ Agency _____ Charge _____ Arrest No. _____

1. IDENTIFICATION AND RESIDENCE

(Defendant's Surname) (First Name & Initial) Date of Birth _____ Male _____ Married _____
Female _____ Single _____

Address (Number and Street) _____ City or Post Office _____ State _____

How Long at Current Address _____ How Long at Previous Address _____

Apt. No. _____ Telephone No. _____ Proof of Identity (Driver's Lic., Auto. Reg., I.D. Card, etc. - Indicate Type and Serial Numbers) _____

Sample Summons Investigation
Report - 2

SEC. 1 Residence Present Residence- Present Residence-
Over 1 Yr. 6 Mo. or Present & 4 Mo. or Present &
SCORE Prior - 1 Yr. Prior - 6 Mo.
____ 3 pts. ____ 2 pts. ____ 1 pt.

Present & Prior SCORE: _____ Points
Under 6 Mos.
____ 0 pts. Verified ____ Interview ____

2. FAMILY RELATIONSHIPS

Lives With
(Name) _____ Relationship _____

If Married, Name of _____ Number of
Defendant's Spouse _____ Children _____

If Separated, Spouse's _____ Number, Street,
Address _____ Borough, Apt. No. _____

Telephone No. _____

Relatives in the Jurisdiction Area that Defendant Keeps in Close Contact With:

Name	Address	Telephone Number	Rela- tion- ship	How Often Seen

SEC. 2 Lives With Family And
Has Regular Contact With
SCORE Other Family Members
____ 3 pts.

Lives Alone But Has Reg-
ular Contact With Other
Relatives
____ 1 pt.

Lives With Family But Has
No Other Family Contacts
____ 2 pts.

Lives Alone Or With Non-
family Person and Has No
Contact With Relatives
____ 0 pts.

SCORE: _____ Points

Verified ____ Interview ____

Sample Summons Investigation
Report - 33. EMPLOYMENT

Currently Name of
Employed By: Company _____ Address _____

Telephone No. _____ How Long _____

If Under 1 Yr., How Type of
Long At Previous Job _____ Work _____

Name of Immediate
Supervisor _____

If Housewife: Husband's Occupation _____

Business Address _____ Telephone No. _____

Score Housewife On Husband's Occupation

SEC. 3	Current Job Over 1 Yr.	Current Job Over 6 Mos.	Present Job Between 4-6 Mos. or Supported By Family Or Present & Prior Job - 6 Mos.
SCORE	____ 3 pts.	____ 2 pts.	____ 1 pt.

Unemployed Or Not
Otherwise Supported
____ 0 pts.

SCORE: _____ Points

Verified ____ Interview ____

4. PRIOR ARRESTS AND CONVICTIONS

Have You Ever Been How Many On What
Arrested Before ____ Yes ____ No Times ____ Charges ____

Investigating Officer Must Conduct Name Check. Results of Name Check:

SEC. 4	No Previous Convictions	One Misdemeanor Or Violation Con- viction	Two Misdemeanor Or Violation Convictions Or One Felony Conviction
SCORE	____ 2 pts.	____ 1 pt.	____ 0 pts.

Three Misdemeanor Or Violation
Convictions Or Two Felony
Convictions
____ Minus (-) 1 pt.

Four Or More Misdemeanor Or
Violation Convictions Or Three
Or More Felony Convictions
____ Minus (-) 2 pts.

SCORE: _____ Points

Verified ____ Interview ____

Sample Summons Investigation
Report - 45. DISCRETIONARY INFORMATION

Medical History: Are You Under A Doctor's _____ Name of Doctor or
Or Hospital Treatment _____ Yes _____ No Hospital _____

Location _____ How Often _____

Financial Assistance: Do You Receive Any Financial Assistance
(Welfare, Unemployment Insurance, Etc.) _____ Yes _____ No

Name and Address of Agency _____

School Or Training: Are You Currently Enrolled in A _____ Name &
School Or Training Program _____ Yes _____ No Address _____
Grade or _____
Length of Course _____

SEC. 5 FAVORABLE - Pregnancy, Old Age
SCORE Poor Health, Continuous Medical
Treatment, Gets Financial Aid,
Attends School, Etc.
_____ 1 pt.

NEUTRAL - No Evidence On
Which to Base Discretionary
Opinion

_____ 0 pts.

UNFAVORABLE - Vague Answers,
Lie Detected, Transient Back-
ground
_____ Minus (-) 1 pt.

SCORE _____ Points

Verified _____ Interview _____

6. LENGTH OF TIME IN THE JURISDICTION

SEC. 6 How Long Have You Over Ten Yrs. Under Ten Yrs.
Lived in the Area: _____ 1 pt. _____ 0 pts.

SCORE SCORE: _____ Points Verified _____ Interview _____

Total Points: Total Points Scored By Defendant On Interview _____ Total Points Scored By Defendant On Verification If Conducted _____

REFERENCES: Names Supplied By Defendant Of Persons Who May Verify The
Information Given By Him. Defendant Must Supply The Names
Of References Regardless Of Whether Or Not Verification Is To
Be Conducted.

Name	Address	Telephone Number	Occupation	Relation-ship

Sample Summons Investigation
Report - 5VERIFICATION INTERVIEW

Person (Surname) (First Name) Address (Number and Street)
 Interviewed: _____
 City or Post Office _____ Telephone Number _____ Relationship to Defendant _____
 Years Known Defendant _____ Items Verified _____
 Identification _____ Residence _____
 Employment _____ Discretionary Info. _____
 Additional Information Supplied and Discrepancies _____
 Length of Time in Jurisdiction _____

Reference's Physical Description of Defendant _____

INVESTIGATOR'S REPORT

Identity of Investigator _____ Rank/Title _____ Print (Surname) (First Name) _____

Shield No. _____ Command/Agency _____

RECOMMENDATION OF INVESTIGATOR:

_____ Summons Recommended _____ Summons Not Recommended

Signature of Investigator _____

DESK OFFICER'S REPORT

1. Recommendation of Investigator _____ Accepted _____ Refused
2. Summons Issued _____ Yes _____ No
3. If Summons Issued: Return Date _____ Court Part _____
4. Arrest No. _____ Summons Control No. _____
5. If Summons Issued, Answer The Following Questions:

(a) Tour of Duty Performed by Arresting/Assigned Officer _____

Sample Summons Investigation
Report - 6

(b) If The Summons Had Not Been Issued, Court Arraignment
Would Have Been in:
_____ Day Court _____ Night Court _____ Week-end Court

6. Signature of Desk Officer _____
(Rank) (Name)

(Shield No.) (Command)

ADDITIONAL REMARKS (Reason for Refusal of Summons Recommendations, Etc.)

From: Fred Mozer, et al, Guidelines for the Planning & Design of Regional & Community Correctional Centers for Adults (Urbana: University of Illinois, Department of Architecture).

Monterey County Adult Probation Department,
Community Resources Management Team

Name _____

Number in Caseload _____

DEGREE OF NEED

323

High

↑

CATEGORY OF SERVICE

EMPLOYMENT	VOCATIONAL TRAINING	ACADEMIC TRAINING	HEALTH	MENTAL HEALTH MENTAL ILLNESS	LEGAL	SUBSTANCE ABUSE (Alcohol, Drugs)	HOUSING
Without work for 30 days and without job prospect in sight. total	Unskilled and unprepared for the labor market. total	Functional illiterate. total	Physically incapacitated for normal functioning. Medical services needed. total	Inappropriate emotional reactions. Lashes out or retreats into self. total	Constantly in trouble. Civil as well as criminal violations habitual. total	Dependent on foreign substance. Requires detoxification and treatment. (Alcoholic or drug addict.) total	Transient, constantly needing a place to stay. total
Employment history is not considered stable. Employed in casual labor. total	Laborer--minimal skills. Constantly changing jobs. total	Intellectual level indicates "backwardness" but is able to function in terms of basic requirements. total	Chronically ill--needs considerable medical care and attention on a continuing basis. total	Confused thinking and inadequate response with high level of anxiety and self-deprecation. total	 total	Frequently and regularly resorts to substance abuse. Requires continuing treatment total	Moves two or three times a year. total
Under-employed or employed part-time with little promise for the future. total	 total	 total	Occasional incapacitation. total	Rational thinking spotted by periods of confusion. Anxiety about real problems. total	Periodically in trouble with the law. Violations are apt to be criminal rather than civil. total	Frequently but irregularly resorts to substance abuse. Needs supportive assistance. Problem considered serious. total	 total
 total	Marketable skills. Able to locate and maintain employment needs without help. total	Completed high school. Is capable of handling day to day requirements. total	 total	 total	Seldom in trouble with the law. When they occur, violations are minor. total	Occasionally resorts to substance abuse. Episodes not considered serious. total	Moves less than once a year. total
Employed and working at or near highest level of potential. total	Has achieved full potential and proficiency for employment in labor market. total	 total	Enjoys sound physical health--seldom ill. total	No unusual thinking patterns. Appropriate emotional responses. Satisfied with self. total	 total	Free from substance abuse. total	Owns own home or has lived in same rental for over one year. total

Exhibit VI-B.

CASELOAD ANALYSIS FORM - MASTER SHEET

Exhibit VI-C

MONTH _____

NAME _____

COMMUNITY RESOURCE MANAGEMENT TEAM MISDEMEANOR REFERRAL EVALUATION FORM

T.R.C.

Referrals During Month
Cumulative Referred
TOTAL

Referred	Service Completed

SER

Referrals During Month
Cumulative Referred
TOTAL

Referred	Service Completed

A.A.

Referrals During Month
Cumulative Referred
TOTAL

Referred	Service Completed

T.E.C.

Referrals During Month
Cumulative Referred
TOTAL

Referred	Service Completed

D.P.W.

Referrals During Month
Cumulative Referred
TOTAL

Referred	Service Completed

FAMILY PLANNING

Referrals During Month
Cumulative Referred
TOTAL

Referred	Service Completed

ST. JOSEPH'S HOSPITAL (Antabuse & Alcohol Counseling Service)

Referrals During Month
Cumulative Referred
TOTAL

Referred	Service Completed

SALVATION ARMY

Referrals During Month
Cumulative Referred
TOTAL

Referred	Service Completed



MISDEMEANOR COURT SERVICES PROJECT

OCTOBER, 19 76

PROBATED DURING MONTH	<u>134</u>	CASES CLOSED:	REFERRED TO WTCOA	<u>92</u>	COMPLETED WTCOA	<u>43</u>	IMPACT: (DWI EDUCATION)
PREVIOUS TOTAL	<u>336</u>	1. REVOKED	(During Month)		(During Month)		<u>55.4% completed</u>
TOTAL PROBATED		2. TERMINATED	PREVIOUS REFERRED	<u>195</u>	PREVIOUS COMPLETION	<u>116</u>	<u>DWI Training Program</u>
SINCE July 1976	<u>470</u>	3. TRANSFERRED	TOTAL REFERRED	<u>287</u>	TOTAL COMPLETED	<u>159</u>	
		OUT					
		4. TRANSFERRED					
		UNSUPERVISED					
			96.3 Referred (287 ÷ 298)				

UNEMPLOYED AT TIME OF PROBATION	<u>40</u>	EMPLOYED AS OF LAST DAY OF MONTH	<u>7</u>	UNEMPLOYED AT TIME OF	<u>127</u>	IMPACT: (EMPLOYMENT)
DURING MONTH				PROBATION		<u>18.8% employed who</u>
PREVIOUS EMPLOYED AT TIME OF	<u>87</u>	EMPLOYED PREVIOUSLY	<u>17</u>	EMPLOYED TO DATE	<u>24</u>	<u>were not employed at</u>
PROBATION		TOTAL OF EMPLOYED	<u>24</u>			<u>time of probation.</u>
TOTAL UNEMPLOYED AT TIME OF	<u>127</u>					
PROBATION						

COMMUNITY AGENCY REFERRALS FOR MONTH	<u>155</u>	SERVICES COMPLETED DURING MONTH	<u>92</u>	IMPACT: (SERVICES)
PREVIOUS TOTAL	<u>309</u>	PREVIOUS SERVICES COMPLETED	<u>124</u>	<u>46.5% of clients referred to</u>
TOTAL REFERRALS	<u>464</u>	TOTAL SERVICES COMPLETED	<u>216</u>	<u>community agencies who</u>
				<u>received one or more service</u>

DWI CASES PROBATED	<u>82</u>	A	DWI ARRESTS FOR MONTH	<u>1</u>	DWI RECIDIVISTS FOR MONTH	<u>1</u>	B	ALCOHOL RELATED RE-ARRESTS	<u>1</u>	TOTAL ARRESTS FOR MONTH	<u>11</u>
DURING MONTH								NON DWI FOR MONTH			
PREVIOUS TOTAL	<u>216</u>		PREVIOUS TOTAL	<u>3</u>	PREVIOUS TOTAL	<u>3</u>		PREVIOUS TOTAL	<u>4</u>	PREVIOUS TOTAL	<u>14</u>
TOTAL DWI CASES			TOTAL DWI RE-ARRESTS	<u>4</u>	TOTAL DWI RECIDIVISTS	<u>4</u>		TOTAL ALCOHOL RELATED		TOTAL RE-ARRESTS	<u>25</u>
RECEIVED	<u>298</u>				PERCENTAGE OF RECIDIVISTS	<u>1.3%</u>		NON DWI	<u>5</u>	*Add total of A + B + C	

IMPACT: 1.3% DWI Recidivist Rate

5.3% Total Re-arrest Rate

C

NON-ALCOHOL RELATED ARRESTS FOR MONTH 9

PREVIOUS TOTAL 7

TOTAL NON-ALCOHOL RELATED OFFENSES 16

NOTE: Since July 1, 1976, of the cases probated, 445 or 94.7% remained arrest free; also, of the 298 DWI cases probated, 294 or 98.7% remained DWI free.

Exhibit VI-D

Court Services Analysis Form
West Texas Regional Probation Dept.

FOOTNOTES TO CHAPTER SIX

1. National Advisory Commission on Criminal Justice Standards and Goals, Corrections (Washington, D.C., 1973), p. 221.
2. Ibid.
3. This account of pretrial release conditions and programs is indebted to an Evaluation of Policy Related Research on the Effectiveness of Pretrial Release Programs, a publication of the National Center for State Courts, 2 volumes (Denver, 1975), sponsored by the National Science Foundation. It details the dimensions of the pretrial release problem, its history and development, and discusses past research and evaluations of practices and programs across all jurisdictions. Authors also assess the effectiveness of specific programs according to six criteria: (1) release rates, (2) speed of operations, (3) equal justice, (4) failure-to-appear rates, (5) pre-trial crime, and (6) economic costs and benefits.
4. Ibid., Volume I, p. XX.
5. Wayne H. Thomas, "Assessment of the Present State of Knowledge Concerning Pretrial Release Programs," from the 1976 National Conference on Pretrial Release and Diversion Resource Book, Section 5 (at note 18).
6. From Daniel J. Freed and Patricia Wald, Bail in the United States: 1964 (Washington, D. C.: 1964), reviewed in An Evaluation of Policy Related Research, pp. 32-35.
7. Thomas, "Assessment of the Present State of Knowledge."
8. "Policymakers' Views Regarding Issues in the Operation and Evaluation of Pretrial Release and Diversion Programs: Findings from a Questionnaire Survey." Appendix C to An Evaluation of Policy Related Research, pp. 91-93.
9. The seven program descriptions provided here are excerpted from Guidelines for the Planning and Design of Regional and Community Correctional Centers for Adults by Fred Mozer, Edith Flynn, Fred Powers and Michael Plautz (Urbana: University of Illinois, Department of Architecture).
10. Ibid., C-8.2(a).
11. Ibid., C-1.3(a).
12. Ibid.

13. New York State Division of Probation, Manual of Probation Goals and Standards. (Albany, 1975), p. X111-3, ff.
14. Joan Mullen, The Dilemma of Diversion (Washington, D.C., 1975), p. 58 at note 61.
15. Ibid., p. 6.
16. Ibid.
17. Ibid., p. 24.
18. Ibid., p.7.
19. Ibid., p. 24.
20. Ibid., p. 29.
21. See A Handbook on Community Corrections in Des Moines (Washington, D.C.: LEAA) and Peter S. Venezia, Pre-Trial Release with Supportive Services for "High Risk" Defendants: A Three Year Evaluation of the Polk County (Iowa) Department of Court Services Community Corrections Project. (Davis, CA: NCCD, 1973).
22. See Bill Read, "The Georgia Restitution Program," paper prepared for the Southern Conference on Corrections, February 1976, from which this description derives. (Available from the Department of Corrections/Offender Rehabilitation, Division of General Services, 800 Peachtree, Atlanta, GA. 30308).
23. Ibid., p. 7.
24. Information about the "Colorado Crime Victim's Restitution Program" may be obtained from Mr. Paul T. Quinn, Colorado Division of Criminal Justice, Department of Local Affairs, 1525 Sherman Street, Denver 80203.
25. Information obtained from: discretionary LEE grant application (76-DF-03-0001) for the Philadelphia Bar Association Victim Counseling Service, dated 7/15/76, and grant application by the Texas Council on Crime and Delinquency to the Hogg Foundation for a similar program, "AVID," Aid to Victims in Distress (action pending).
26. Letter from the West Texas Regional Adult Probation Department (3/19/77) describing the "Community Resource Management Training" program presented by the Western Institute Commission on Higher Education.
27. Ibid.
28. Charles L. Newman, Sourcebook on Probation, Parole & Pardons (Springfield: Thomas, 1958), p. x.

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CHAPTER 7 ADMINISTRATIVE & FINANCING

- (1) STATEWIDE ADMINISTRATION & FINANCING
- (2) ORGANIZATION & MANAGEMENT
- (3) BUDGETING
- (4) STATISTICS, RESEARCH & PLANNING
- (5) ACCOUNTS & RECORDS

SUMMARY OF RECOMMENDATIONS

- VII.1 Responsibility for the administration of probation should remain in the hands of district judges. Departments should continue to determine their own interests, programs and practices, so long as they are consistent with recommended professional standards.
- VII.2 The major responsibility for financing adult probation should be made the State's, through direct aid to local departments in order to meet the professional standards defined by both this Plan and the responsible body administering state aid, now the Texas Adult Probation Commission.
- VII.3 A statewide service center should be maintained to help local departments develop and improve their programs and to disburse state monies for their support. The center's functions should be:
- (1) to disseminate information to local departments about: legislative changes, case law, training opportunities, special programs, job openings, and pertinent research findings;
 - (2) to provide technical assistance to departments in case load management, record keeping, program development and evaluation, in-service training, grant-writing, program administration, and community relations;
 - (3) to help coordinate statewide activities bearing on probation and the development of community-based corrections;
 - (4) to plan, gather, analyze and publish data describing probation services, activities, and trends;
 - (5) to conduct research and continue planning begun with this project;
 - (6) to help departments apply for and obtain state and federal funds;
 - (7) to monitor adult probation services to see that state standards are being met.
- VII.4 Each department should develop and maintain an administrative manual to define its general purpose and its functional objectives; and should incorporate all written policies and procedures as they are distributed to staff.
- (A) These policies and procedures should be reviewed and revised at least annually.
- (B) Probation officers should maintain a personal notebook of current policies and procedures as revised.
- (See also Recommendation IV.2).

- VII.5 Staff should be involved in the development and review of both state standards and local policies and procedures.
- VII.6 Department administrators should clearly define authority and responsibility at all levels of staff.
- VII.7 Staff meetings should be scheduled regularly, and organized so as to be brief and to the point.
- VII.8 Operation of all probation departments should be free from improper political influence.
- VII.9 The Texas Adult Probation Commission should promptly inform each department of the amount of aid for which it qualifies in order to facilitate local budget planning.
- VII.10 All state level agencies channeling federal and/or state monies to local communities for court services and community corrections should establish a body to:
- (1) coordinate plans and procedures for the granting and administration of these monies; and
 - (2) promote consistent standards, grant request procedures, and accounting requirements that will facilitate the development of programs and minimize bureaucratic inconsistencies.
- VII.11 Department administrators should base annual budgets upon a review of past performance, of trends in current practices and of new program requirements. Adequate data should be gathered, maintained and analyzed to make this possible.
- VII.12 Departments experimenting with model projects outside the range of annual budgets should explore special federal, state and private sources.
- VII.13 Expenditure of budgeted funds should be monitored and reviewed regularly.
- VII.14 Each department should define its own information needs, should designate in writing responsibility for compiling and reporting data, and should collaborate with other local criminal justice agencies in gathering and exchanging information.
- Annual reports including descriptive data should be presented to district and county judges exercising criminal jurisdiction for their consideration.
- VII.15 Standardized data should be compiled on a monthly basis by each adult probation department in the state, and should be reported to a state body responsible for analyzing and publishing it.
- VII.16 Departments should plan to participate in the Comprehensive Data System when it becomes operational.

- VII.17 There should be continued collaboration on a state level between probation authorities and other criminal justice administrators to improve statewide data collection systems.
- VII.18 Program planning at both state and local levels should take into account information regarding:
- (1) broad cultural, social and political change;
 - (2) changes in relationships between probation departments, other government and private agencies, and the community; and
 - (3) departments' objectives, policies, structures and achievements.
- VII.19 Each department should designate and maintain written procedures and responsibility for the collection, safeguard and disbursement of monies, as approved by the county auditor. These procedures should be included in the department's administrative manual.
- VII.20 Collection and bookkeeping procedures should comply with acceptable accounting practices.
- VII.21 Reporting of all financial collections and disbursements should be submitted to district judges and other appropriate authorities as required.
- VII.22 Department administrators should check current records periodically to see that adequate data on probation are collected and recorded as outlined in the department manual.
- VII.23 Each department should insure its own effectiveness and performance using the recommendations outlined in this Plan as measures for evaluation. All professional staff should take part in program analysis and review at least annually.

Introduction

The purpose of this chapter is to show how probation programs may be made more meaningful and how they may expand their role in creating effective community correctional systems in all Texas jurisdictions, through improved administration and financing. This problem is approached at two levels. At the state level, the statutorily defined administrative and fiscal responsibilities for probation are scrutinized to determine needed reform. At the local level, ways to improve management of individual departments are explored and suggested.

Aims

An attentive and well-organized administrative body should assume responsibility for promoting community-based corrections across the state. Authority should be focused in a central coordinating body, as well as vested in local probation departments. Secondly, a financial framework adequate to the needs of all probation systems should be able to weigh the costs against the benefits of probation in context with other correctional programs. Finally, local management of funds and all potential resources should serve to attain the objectives of community corrections with effectiveness and economy. Research, planning, budgeting,

accounting and evaluation should all function to this purpose. All departments should be managed to function cooperatively with other parts of the criminal justice system.

Issues

A brief historical recap will begin this discussion of probation's administration in Texas. The first statute permitting supervision of convicted felons in the community (the Adult Probation and Parole Law of 1947) gave authority to a central state body for hiring probation officers and administering services. Due largely to the unpopularity of the program, the Texas Legislature never came forward with appropriations to support this system. Local district courts in those counties with both foresight and an adequate tax base were thus forced to seek special arrangements, local legislation and county financing, in order to provide supervision and a meaningful alternative to incarceration or the old suspended sentence. These counties, who took initiative locally, set a precedent which shaped the 1957 statute defining responsibility for financing and administering probation at the local level.

Probation services, then, were left to evolve gradually as the idea sold itself on its own merits, rather than according to a fully-conceived and coordinated plan. Not all

communities have been so eager. Now, thirty years later, probation services are finally available on some scale in every county but one in this state (See Volume I of this Plan, pp. 124-129). What was true then, however, remains true today: only those counties with an adequate tax base (or federal assistance) can afford full probation services. Whereas metropolitan areas were forerunners in developing community correctional systems in this state, these same systems are now confronted with the proliferating problems of urban government and crime. The functioning of some of these departments is dependent upon their ability to attract assistance from outside resources. Small, rural counties are like the larger ones in finding full support beyond their over-taxed means.

We have already described in Chapter 4 the contradictions inherent to the system of administering and financing probation that has endured since 1957. In brief, counties are asked to assume the cost of correcting felons in their own communities, although the state assumes this responsibility for all other correctional programs for felons. To some extent this arrangement discourages local incentive to develop and make use of community programs, despite the fact that they are more economical than institutional programs (\$0.32 per day per felon as contrasted with incarceration's \$5.85 per day per felon, 1976 costs).

Evidence that county governments have been unwilling to allocate monies necessary to fully staff and furnish probation departments (much less to underwrite training and the purchase of needed services for clients) includes suits brought by commissioners courts in Lubbock and Hays counties, testing the power of district judges to set salaries and to determine necessary expenses for district probation departments. The Texas Court of Civil Appeals has determined that Article 42.12 "did not confer veto power on commissioners court or . . . give such court authority in lieu of that required of the district judge" (Commissioners Court of Hays County vs. District Judge, 22nd Judicial District of Hays County, 1974 Civ. App., 506 SW 2nd 630).

Besides involving a division of powers between local and state governing bodies, this fiscal framework imposes an unwieldy budgeting process for many probation departments. Probation chiefs submit budget request to district judges for approval, and then follow them through whatever budget review and justification procedures are established by county commissioners. Departments with jurisdictions covering several counties must work with the commissioners courts in each of these counties, in order to obtain their allocated share of support for felony and misdemeanor probation services. The majority of departments cover at least two counties. Clearly, this arrangement demands greater time and energy on the part of probation administrators than should be necessary to obtain and justify funds.

The overwhelming need for better fiscal support for probation must be reiterated here, as it has been throughout this Master Plan. Although some communities have, with the help of federal monies, developed effective services and a wide range of programs, the majority have not realized probation's potential to serve and to protect the community.

A need for change is implicit in the fact that during the past six years no improvement in fiscal support for probation has been realized over the state as a whole. A greater expenditure of money has been completely absorbed by a greater use of probation, even though most probation systems were not adequately staffed in the first place. From 1971 through 1976 overall expenditures in Texas increased from approximately \$8 million to \$10.5 million, as noted already in Volume I of this Plan (pp. 199-202). The growth over six years was thus 31%. At the same time, the number of probationers needing services has grown from 68,600 in 1971 to 90,400 in 1976, a growth amounting to 32%. The figure for 1976 excludes some 9,000 misdemeanor probationers who receive no form of supervision. Hence, the statewide expenditure per capita has dropped slightly from \$117 in 1971 to \$116 in 1976. While inflation has eaten into the economic value of this sum (by some 30%), the per diem cost of maintaining a probationer in the community has remained constant at a level of only 32 cents.

At the same time, the balance of expenditures among federal, state and local resources has shifted considerably, with local communities and probation fees assuming a greater share. In 1971 federal monies underwrote thirty to forty percent of the state's expenses for probation (\$3,765,000), while by 1976 this proportion had decreased to only twenty percent (\$2 million). Meanwhile, income from probation fees assessed offenders has risen from \$2 million in 1971 (25% of total budgets), to \$4.2 million in 1976 (40% of total budgets).

Looking to the future, and assuming that the present tightening and uncertainties of national and state economies will continue, it can reasonably be deduced that this trend will continue unless the fiscal structure for probation systems changes. Increasing competition for local funds and a steady desire not to levy new taxes are likely to make county commissioners less willing to invest in community corrections, rather than more so. Recommendations contained in this Plan cannot be implemented without increases in local budgets, chiefly for personnel. It can not be said that every effort has been made to make community corrections less politically unpopular on the local level; and more must be done to this end. The battle for adequate local financial support, however, in the face of more conservative federal spending for corrections, is bound to continue to be a losing one.

Despite the growing reliance upon probation fees to finance local systems, departments can not and should not have to rely upon this source as the staple in their financial

diet. The popular sentiment that offenders should be made to assume all costs for supervising them in the community is based on unrealistic expectations. A majority of probationers in most Texas communities either could not afford full payment of this monthly fee, or else would find it an unfair burden.

Effective August 28, 1977, the maximum allowable supervision fee will increase from \$10 to \$15 per month. Full collection is not possible, and both the U. S. Supreme Court and the Texas Court of Criminal Appeals have ruled that failure to pay must be shown to be intentional before a motion-to-revoke can be effected, forcing collection.¹ A collection rate of two-thirds the full potential of revenue from fees for all probationers is considered by probation chiefs to be the maximum rate possible, and less than 40% of the "full potential" is presently collected. Yet even if \$15 were assessed monthly against each probationer in the state, the amount that could be collected would not meet the meager \$0.32 per day already expended statewide on services.

Most probationers are assessed not only the probation fee but also court costs, fines and/or a fee to reimburse the court for a court-appointed attorney. On top of this, restitution is and should be ordered in many cases. Weighing the merits of the two, restitution should be assigned greater importance by the courts than is assigned assessment of the probation fee. This is not likely to be the case where probation departments depend upon fees for the major portion

of their income. Probation administrators report that at budget review time commissioners courts, and many judges as well, fail to inquire about restitution which has been collected and returned to constituents, being interested only in the amount their departments collected in fees. The probation fee should not be assessed so as to create hardship or be a potential incentive to further petty crime by one who is under- or unemployed.

The \$4.2 million in probation fees collected in 1976 for district and county courts comprised 40% of the total support for probation in this state. Sixty-three percent of the probation departments surveyed acknowledge that strong or very strong emphasis is placed upon collection of probation fees in both felony and misdemeanor jurisdictions. Six departments, in fact, fully met or exceeded their budgets through fee collections last year, and a quarter of the departments realized more than 50% of their budgets through fees (these constituting a larger share of rural budgets than of metropolitan budgets).

Reliance upon fees as the foundation for departmental budgets is ill-advised on two grounds. First, it creates an economic incentive--which may amount to pressure--to place and keep persons on probation. Hence, probation may be imposed for misdemeanants where a fine would suffice. Longer sentences for felons than are necessary for corrective and punishment purposes may also result. Furthermore, departments may hesitate to terminate cases as allowed by statute where these

long sentences have been imposed. Both judicial and administrative decision-making should remain as detached as possible from economic motives, to preserve the fairness and dignity of our system of justice.

The second ground necessitating discretion in the levying of probation fees concerns the objectivity and credibility of the probation process. Incentive to keep probationers on case loads longer than necessary for corrective purposes leads probation officers to misplace their emphasis and objectives. While from the point of view of effective supervision small case loads are needed, hesitation to terminate cases results in retention of large case loads. A significant number of prosecuting attorneys surveyed for this Plan observed that their local departments seem to place more emphasis upon money collections than upon their stated objectives of reducing crime and recidivism. No aspect of probation's administration should undercut the full meaning of this sanction.

Probation fees constitute the life blood of some departments and whatever their merits or demerits, no financial structure adopted by the state is ever likely to delete their role. At the same time, no department should have to depend, as some do now, upon probation fees for the major portion of their income and support. Adequate state funds should be made available to relieve pressure at the local level to assess this fee. More emphasis should be shifted at the

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sentencing stage to restitution orders. Compared to the \$4,200,000 collected by probation departments in the form of fees, only \$1,500,000 was collected in the form of restitution in 1975 (See Volume I; Q1, #87, p. 250).

Inadequate financial means to reach the high standard of performance and thorough protection of the community is one result of the evolution of probation through local government. Another result has been diversity and disparity among practices of local probation departments. Transfers from one jurisdiction to another for purposes of supervision are unnecessarily complicated by differing policies and procedures. Research on activities and trends has been the more difficult as a result of vastly different sentencing and administrative policies and of uneven record keeping. It has been difficult for probation officers to organize and support legislative changes to improve probation's administration. Departments have not coordinated their activities to develop a range of programs because channels and funds for on-going communication have not been established. If Texas is to develop a high standard of probation services, solutions must be found to each of these problems.

(1)

Statewide Administration & Financing

GENERAL RECOMMENDATIONS

- VII.1 Responsibility for the administration of probation should remain in the hands of district judges. Departments should continue to determine their own interests, programs and practices, so long as they are consistent with recommended professional standards.
- VII.2 The major responsibility for financing adult probation should be made the State's, through direct aid to local departments in order to meet the professional standards defined by both this Plan and the responsible body administering state aid, now the Texas Adult Probation Commission.
- VII.3 A statewide service center should be maintained to help local departments develop and improve their programs and to disburse state monies for their support. The center's functions should be:
- (1) to disseminate information to local departments about: legislative changes, case law, training opportunities, special programs, job openings, and pertinent research findings;
 - (2) to provide technical assistance to departments in case load management, record keeping, program development and evaluation, in-service training, grant-writing, program administration, and community relations;
 - (3) to help coordinate statewide activities bearing on probation and the development of community-based corrections;
 - (4) to plan, gather, analyze and publish data describing probation services, activities, and trends;
 - (5) to conduct research and continue planning begun with this project;
 - (6) to help departments apply for and obtain state, federal and private funds; and
 - (7) monitor adult probation services to see that state standards are being met.

What reforms are necessary in order to resolve these difficulties and obstacles to progress? First, focusing of administrative responsibility to improve standards and permit uniformity of services across the state is necessary. Moreover,

in order to give meaning to this first measure, local departments must be provided additional financial help to implement recommendations and achieve these standards. This will require a sounder system of financing.

Administrative focus to improve systems could be achieved either through direct state administration of services or through a continuation of local control enhanced by a state service center established for the purposes described above. Research and standards in this area show no preference for "any particular formula for the allocation of administrative authority for probation services between state and local governments."² The ABA Advisory Committee on Probation is in agreement with the Model Penal Code (Section 401.12) and the NCCD Standard Probation and Parole Act (Sections 3 and 7) in asserting that "adequate services can be developed through a multiplicity of approaches."³ The general trend in development of adult probation services has been toward state administration. In 1970, 36 states administered probation on a statewide level, 30 of them in conjunction with parole services and 6 of them through a separate board or agency; 14 states administered probation services locally.⁴ A few states use a combined approach, i.e., Pennsylvania provides a statewide system, but also permits larger cities to establish their own, locally-run probation departments.

At the present time, the advantages of direct state administration of probation would seem to be outweighed by

the cost and difficulty of transition. Furthermore, support for such a move is divided in the field. Probation officers, district judges, county judges, prosecutors and defense attorneys were all asked to indicate the administrative and fiscal arrangement they favor. The consensus for all groups favored two alternatives. A stronger preference on the whole was expressed for local judicial control with a state service center to promote uniformity of standards than for a state system under control of the judicial branch of government. Secondly, a subsidy system allocating state monies to local departments based either on district-wide population or on probationers supervised was favored. (See Exhibit VII-A.)

Drawing from these recommendations, the Master Plan envisions a fiscal structure in which state monies are equitably distributed for the use of local systems to fulfill identified objectives for which they will be held accountable. These state monies will continue to be enriched by federal grants, local contributions and probation fees, according to the needs and desires of individual communities.

Three basic alternatives are worth considering for allocation of these state monies. First, a grant process could be established with built-in guidelines and procedures for submission and approval of overall budget. Second, formulas for allocations could be developed based on population, on probationers and other persons supervised in the judicial district or districts covered by each department, or

on some combination of the two. Finally, a subsidy could be tied to a performance contract, binding jurisdictions to divert a specified proportion of felons from state institutions.

Under the first, grant request/approval structure, departments would be required to justify budget requests according to defined criteria. These criteria would include a clear definition of goals and objectives, sound organization and management within which to realize these objectives, and well defined built-in performance measurements. Most state administered systems function in this way. To some extent they are governed by market place principles, in that the more aggressive departments who do a good job selling their program are likely to receive a greater share of available funds.

Subsidy tied to performance based upon diverting offenders from institutional imprisonment has been attempted most fully in California. This requirement calls for a relatively elaborate research component able to document and oversee local activities. The effectiveness of the California subsidy system in realizing institutional reductions is subject to criticism and controversy. In particular, it has been found that although local courts diverted offenders from state institutions, the money awarded for that purpose went towards a proliferation of institutional programs at the local level.

A straight subsidy system would be simpler and more direct to administer. Subsidy on the basis of district population would put to disadvantage communities where crime

rates are higher than average--for the most part in metropolitan areas--and perhaps would enrich unfairly communities that continue to incarcerate high proportions of offenders. Subsidy on the basis of the number of persons supervised is more equitable, particularly to larger departments, and would encourage judges to make greater use of the probation sanction (although economic incentive should, of course, not prevail over considerations for community safety). Special arrangements might be required for rural areas where departments either do not exist or are not fully functional.

The advantages of such a system would be these. Local administration will allow more flexibility to programs and minimize bureaucratic rigidity. Furthermore, programs administered at a local level tend to develop better support from the citizenry and local agencies (see the President's Commission on Law Enforcement and Administration of Justice: Corrections, p. 36). It will also avoid diverting monies from communities to a large administrative structure. At this time such a structure would not pay for itself in terms of improved performance. The most crying needs are for more staff in the field; these needs must be attended to first. All concentration must be focused on developing and at the same time streamlining local court systems and a range of community correctional services. Finally, this system will leave responsibility for probation with those who wield the greatest power over it through the administration of the courts. District judges determine the shape of probation through their sentencing

policies and practices, and provide the necessary leadership for developing community corrections. Judges and probation officers must be able to work together and cooperate to mutual ends.

Relationships between judges and probation officers need to be solidified and strengthened, in order to fully meet the aims articulated in this Plan. This will be achieved only through better communication, sharing of information and judicial recognition of the probation system's significance to the work of their courts. The ABA study committee on probation stated the needs in this way:

Judges should take the lead in explaining and interpreting the purpose of probation, the success that it does and can enjoy, and its lower costs, both social and financial. Judges should also encourage their probation departments to undertake programs to inform the community about the nature and objectives of probation. Advisory Committees, on which citizens, judges and probation officials sit, should be formed at the instance of the judiciary to act as conduits for educational efforts. Judges and their probation personnel should make themselves available to speak before citizen groups and professional, business, labor and other organizations to explain the attributes and needs of probation services.⁵

District judges should retain authority to appoint chief probation officers (See ABA, Standards for Probation, Section 6.4, Commentary at 91-92), and to oversee department operations. The administrative role of the district judge varies according to the size of the department's jurisdiction. In rural areas that role is significant. In metropolitan areas, several judges hear criminal cases and the complex organization of the probation department requires "continuous

and intensive administrative attention by professional, fulltime managers."⁶ As the President's Commission, in exploring this aspect of administration, noted:

To manage so widely dispersed an operation requires specialized expertise and close control which are almost impossible for a judge whose career investment is not in administration. Moreover, organizational effectiveness and continuity of policy are apt to be seriously impaired in an agency subject to detailed administrative direction by both a judge and a chief probation officer.⁷

Procedures for appointing chief probation officers around the state are as diverse as are departmental policies. The possibility of instituting some form of merit examination to screen all applicants for the position of chief probation officer should be studied by a statewide panel of judges and chiefs. This measure could serve to insure that administrators meet established minimum qualification requirements and to upgrade the quality of applicants without, however, dictating to district judges and local communities who should be hired. Other arrangements adopted by various states for the appointment of chiefs include:

- (1) appointment by a county governing body;
- (2) appointment by the governor;
- (3) appointment by a state board, with judicial nominations; and
- (4) appointment by the judiciary from a list supplied by a state agency.⁸

District judges and chief probation officers in Texas should assume a mutual responsibility to improve the level of qualifications and management skills of probation administrators.

It is recommended, then, that district judges and chief probation officers retain direct authority over the development of local services. In addition, a central administrative body is required by the grant or subsidy system explained above to develop criteria for awards, to disburse state monies, and to oversee proper use of these monies. This body will form a helping relationship with local departments, putting money within reach of all those who are willing to strive honestly towards a high standard of performance. It will also provide services to help departments achieve that standard.

Such a body is created by legislation recently amending Article 42.12, adding Article 42.121 which creates the Texas Adult Probation Commission. This Commission is given authority to promulgate reasonable rules:

- (1) establishing minimum standards for case loads, programs, facilities, and equipment and other aspects of the operation of a probation office necessary for the provision of adequate and effective probation services;
- (2) establishing a code of ethics for probation officers and providing for the enforcement thereof. (Article 42.121, § 3.01.)

The Commission is likewise authorized to accept gifts and grants from "any public or private source for use in maintaining and improving probation services in Texas." (§ 3.03). When the Commission determines that a judicial district complies with its standards, that district becomes eligible for state aid to be used solely for "the provision of adult probation services and community-based correctional programs and

facilities other than jails or prisons." (§ 4.05b)

A copy of the bill governing the creation and duties of the Texas Adult Probation Commission and affecting the administration of services at the local level is appended to this chapter (pp. 383-393).

The Commission is properly conceived as a statewide service center for local departments in whom is vested authority for planning the improvement of services around the state. Besides distributing state aid, the Commission's staff can and should undertake the following functions:

- (1) disseminate information to local departments about: legislative amendments to governing statutes, significant appeal decisions shaping court and probation practices, exemplary projects, training opportunities, relevant research findings, and job openings around the state;
- (2) provide technical assistance to local departments in case load management, record keeping, program development and evaluation, in-service training, grant writing, program administration and community relations;
- (3) plan, gather, analyze and publish data describing probation services, activities and trends;
- (4) conduct research and continue the planning begun with this project;
- (5) help departments apply for and obtain federal, state and private funds;
- (6) help coordinate and keep track of statewide activities bearing on the development of probation and of community-based corrections; and
- (7) see that adult probation departments meet reasonable professional standards.

One problem encountered from the wording of the new statute is that probation departments are asked to comply with

standards defined by the Commission in order to qualify for the same state aid that will probably be necessary for most departments to meet those standards. Some provision will need to be made for initial grants to these departments, or for a graduated set of standards with built-in time scales for their implementation. The Commission should give serious thought to formation of an Advisory Board of probation practitioners who will help give direction to standard setting, enforcement, and other functions.

One feature which must accompany the revisions provided by this legislation for financing probation systems is accountability. The greater investment of monies must be justified by improved performance according to well-defined standards and measures. Those who are made responsible for administering state aid to local departments will want to develop indicators that will help them answer at least six basic questions. These questions, and vehicles through which measurable answers might be reasonably obtained, are formulated below:

- (1) Are services provided for all courts?
(Statistics indicating preparation and use of presentence investigation reports in district and county courts; statistics indicating other pretrial investigations and supervision.)
- (2) Are the courts served satisfied with the department's performance?
(Documentation of cooperation with local judiciary: meetings, training sessions and evaluations.)
- (3) Is the public aware, supportive of and involved in the probation department's goals and functions?
(Documentation of public education efforts and activities of volunteers.)

- (4) Are adequate facts gathered and recorded to plan and evaluate programs and services?
(Submission of periodical statistical reports and annual activity reports; audits of case records; and participation in statewide or local data systems.)
- (5) Are services provided for clients who need them?
(Documentation of referrals and cooperative contracts.)
- (6) Is the department fairly and efficiently managed?
(Submission of statistical data and audits of bookkeeping; documentation of personnel activities and losses; documentation and audits of case loads; and evaluation of compliance with the terms of the subsidy or grant process.)

Eventually, in the distant future, it may be possible to measure performance through more sophisticated statistical research and analysis. This, however, will require thorough, uniform and formalized record keeping through a statewide management information system. The Commission might give thought in the meantime to the use of field practitioners (other probation officers) in evaluating the performance of departments accepting state aid.

Organization and Management

RECOMMENDATIONS

- VII.4 Each department should develop and maintain an administrative manual to define its general purpose and its functional objectives; and incorporate all written policies and procedures as they are distributed to staff.
- (A) These policies and procedures should be reviewed and revised at least annually.
- (B) Probation officers should maintain a personal notebook of current policies and procedures as revised.
- (See also Recommendation IV.2)
- VII.5 Staff should be involved in the development and review of both state standards and local policies and procedures.
- VII.6 Department administrators should clearly define authority and responsibility at all levels of staff.
- VII.7 Staff meetings should be scheduled regularly, and organized so as to be brief and to the point.
- VII.8 Operation of all probation departments should be free from improper political influence.

Experience with massive influx to communities of federal monies through programs administered by LEAA has shown that more money alone will not suffice to meet correctional objectives. This plan strongly endorses the inception of the Adult Probation Commission and the awarding of state money to local communities to improve services. At the same time it also recommends improved management of individual departments through more clearly defined principles of operation, streamlined procedures, greater sophistication and coordination in planning a range of programs, account-

ability to both communities and the state, and vigilant self-evaluation. The recommendations presented here support each of these ends.

Improved management begins with self-definition and a thorough assessment of department operations--organizational structure, delineation of responsibilities, case load management, court policies and procedures, in-house policies, training provisions, use of volunteers, community resource needs, facilities, public relations, and so forth. Line staff should participate in assessment and planning. Given vigorous leadership and well-chosen staff, this approach to management becomes the most creative and effective possible, since everyone has a stake in the department's successful operation.

Departments may find outside help useful in undertaking the assessment process. Should serious management problems become apparent in larger departments, then money should be sought for formal evaluation. Otherwise help may be found from other probation departments, or from the projected statewide service center. (Also, see Section 6, this chapter.)

Self-definition is absolutely vital. For this reason, administrators and staff are encouraged to put every aspect of their daily operations down on paper, as clearly and simply as possible. With these blueprints in hand, operations can be thoroughly examined and critiqued. Once changes have been suggested, worked out, and incorporated, departments

possess a statement by which to gauge the implementation of these changes in their daily functioning.

This full sketch of department operations should be developed into an administrative manual. The manual will incorporate current written policies and procedures governing daily operations. It will also incorporate job descriptions and an organizational chart defining authority and responsibility at all levels of staff, so that all objectives of the department are fulfilled without conflicts, overlaps, or gaps in assignments. Specific policies which should appear in this manual are indicated throughout the Master Plan.

An administrative manual is helpful for training and management purposes, and for use by other criminal justice officials. Each staff person should have easy access to a copy which is kept completely up-to-date as policies and procedures are revised. Probation officers should maintain personal notebooks including training materials and copies of these revised policies and procedures wherever distribution of the complete manual would be too expensive to justify. Formal review of the manual should occur at least annually as part of a department-wide evaluation.

Organization forms one basis for good management; communication forms the other. Staff should schedule regular meetings that are brief and informal. The functions of these meetings are to share information, air new problems and developments, and inform staff of revisions in policies

or procedures. Staff meetings should not substitute for regular in-service training of personnel. In large departments it is more important that regular meetings be held among individual units of workers, with occasional full staff meetings as the need demands.

Budgeting

RECOMMENDATIONS

- VII.9 The Texas Adult Probation Commission should promptly inform each department of the amount of aid for which it qualifies in order to facilitate local budget planning.
- VII.10 All state level agencies channelling federal and/or state monies to local communities for court services and community corrections should establish a body to:
- (1) coordinate plans and procedures for the granting and administration of these monies; and
 - (2) promote consistent standards, grant requests procedures, and accounting requirements that will facilitate the development of programs and minimize bureaucratic inconsistencies.
- VII.11 Department administrators should base annual budgets upon a review of past performance, of trends in current practices and of new program requirements. Adequate data should be gathered, maintained and analyzed to make this possible.
- VII.12 Departments experimenting with model projects outside the range of annual budgets should continue to explore special federal, state and private sources.
- VII.13 Expenditure of budgeted funds should be monitored and reviewed regularly.

The need for better fiscal support has already been documented in this chapter, and revisions in fiscal responsibility for probation programs have been outlined. This Plan works from a belief that community corrections is part of a range or system of correctional programs, all of which are properly the responsibility of the state. The Texas Adult Probation Commission will assume responsibility for channelling state aid to local community programs, and for facilitating local planning, administration, and coordination of services. Staff for the new Commission should take every

care to expedite these three functions. Recommendations VII.9 and VII.10 are made with this in mind.

One way in which the Commission will be able to expedite the task of local planners is through coordination with other state level agencies who handle monies affecting services in the community. The Commission should take the initiative to work with other such agencies in simplifying the granting and administration of these monies. Uniform grant procedures and requirements will ease the burden of local departments making requests. Staff for the Commission should work closely with department administrators on these problems. Grant procedures designed by state agencies should provide as much certainty as possible to local administrators in their budget planning process.

The Criminal Justice Division of the Governor's Office should continue to play a significant role in improving services by providing financial support for exemplary programs. It should continue to subsidize planning and research at a level comparable to that of present funding. Local departments should vigorously explore all government programs, state agencies, and private foundations for funds to enrich their services.

One of the biggest needs in the budgeting process around the state is for management information systems providing adequate data to analyze past performance, trends, current practices and new program requirements. The Comptroller

General's 1976 report to Congress on state and county probation systems identified this as one of four major areas of inadequacy in probation management. It is hoped that the Comprehensive Data System described in Chapter 5 will eventually provide local departments with the means for implementing information systems that can inform their planning process.

The importance of keeping good records of department activities, collections and expenses will continue to grow as department case loads expand. Good records are important to many grant processes and will play a crucial part in obtaining subsidy payments based upon case load sizes. More is said on this topic in Sections 4 and 5 of this chapter.

The Master Plan Project has received many requests for information describing costs to provide an adequate and effective system of probation. Consequently, it constructed a model budget for a hypothetical probation department (see pp. 395-96). We chose to estimate the number of professional and support positions necessary to supervise and provide services for a steady level of 1,725 individuals. Such a case load would be comparable to that carried in Denton and Jefferson counties in 1976. Based upon types of case loads in other departments, it is theorized that a total of 850 misdemeanants would fall under both regular and informal (or diversion) supervision, and that 625 felons would be probated. Another 250 persons would be supervised as part of pretrial release programs.

To determine the number of probation officers and assistants needed, case loads of varying degrees of supervision (minimum, medium and maximum) were constructed. A total of seventeen field staff would render an average case load of close to 100. Approximately one support position is provided for every two professional positions. Salaries for these positions are based upon salaries offered currently in state agencies and in other states' probation systems. Fringe benefits are figured at 14% of total salaries. Travel is allowed for each professional person at a flat monthly rate of \$100, covering all expenses incurred in routine performance of duties. In addition, travel outside the department's district(s) is computed at the state rate of 16 cents a mile to allow for travel to training workshops and professional meetings, as recommended in Chapter 4 of this Plan. A subsistence budget for out of district travel permits up to \$25 a day.

The ability to purchase services directly affects the quality of supervision and the extent to which treatment plan are implemented. Accordingly, costs for diagnostic services, residential programs and a range of nonresidential services such as counseling and remedial training have been averaged for all persons supervised and a typical monthly figure derived (\$1,550 for 31 clients, on the average).

Computed on this basis, total expenses for which probation administrators must budget amount to \$612,816. Eighty-seven percent of this figure goes to staff salaries and

benefits, nine percent underwrites travel expenses, and four percent pays for additional needed client services. By these estimates, then, yearly cost for maintenance of an average case load of 1,725 persons over a range of community correctional programs is \$355 per probationer. Per diem cost is 97 cents. This represents a tripling of the amount presently spent in Texas.

It should be noted that budget areas for which the counties assume responsibility--namely, office space, equipment and supplies--are not included in this budget. By our projection, however, these amount to an additional 7% over the total budgeted cost (increasing the total per diem expenditure to \$1.04).

This hypothetical budget is reproduced on pages 395-396 (Exhibit VII-C). Department administrators should formulate future budgets with an eye to a comparable level of support for their particular needs. Salaries suggested for administrative positions may vary with the size of the department and the degree of responsibilities.

Statistics, Research & Planning

RECOMMENDATIONS

- VII.14 Each department should define its own information needs, should designate in writing responsibility for compiling and reporting data, and should collaborate with other local criminal justice agencies in gathering and exchanging information.
- Annual reports including descriptive data should be presented to district and county judges exercising criminal jurisdiction for their consideration.
- VII.15 Standardized data should be compiled on a monthly basis by each adult probation department in the state, and should be reported to a state body responsible for analyzing and publishing it.
- VII.16 Departments should plan to participate in the Comprehensive Data System when it becomes operational.
- VII.17 There should be continued collaboration on a state level between probation authorities and other criminal justice administrators to improve statewide data collection systems.
- VII.18 Program planning at both state and local levels should take into account information regarding:
- (1) broad cultural, social and political change;
 - (2) changes in relationships between probation departments, other government and private agencies, and the community; and
 - (3) departments' objectives, policies, structures and achievements.

The importance of improved information systems has been stated already and is emphasized here. It is significant to the future of community corrections in Texas that uniform data should be collected on a statewide scale in order to chart and anticipate trends. While each department will have special information needs directed by types of programs operated, it is important that research be done on a large

scale and that it be tied to research done in other areas of criminal justice.

The National Advisory Commission on Criminal Justice Standards and Goals recommends the following principles for development of information systems.⁹ First, a responsible body should develop an information system that could be used by each probation department to facilitate:

- (1) offender accounting;
- (2) administrative decision-making;
- (3) on-going department research; and
- (4) prompt response to ad hoc inquiries.

This information system should allow departments to undertake a routine analysis at any point in time of program status.

Data of this nature should include:

- (1) offender population characteristics;
- (2) program participants;
- (3) organizational units (case loads); and
- (4) fiscal data.

Additionally, departments should be able to accumulate data to show flow and change over a period of time for:

- (1) offender population characteristics;
- (2) activities and success of offenders; and
- (3) personnel.

Each department's information system should be designed to provide automatic notification of:

- (1) noncompliance of probationers with specified requirements;

- (2) variations from a standard capacity in case load assignments, special programs or staff units; and
- (3) excessive time in process.

Planning of information needs is crucial. For this reason it is again recommended that this subject be taken up at the statewide chiefs' training conference.

Designation of responsibility for compiling information and interpreting it should be clear, and departments should see that data is collected and reported in a consistent form. The Master Plan project developed a monthly Adult Probation Services Report form, which is appended at the end of this chapter as Exhibit VII-D. This form indicates the degree and type of information necessary to trace trends in department activities and sentencing, and it may be used as a basis for local data gathering.

Departments should not only maintain information about their own functions, but they should also publish it. An annual report is presently compiled by most of the larger adult probation departments around the state for distribution to district and county judges, department personnel, other criminal justice administrators, county commissioners, resource agencies, and the public at large. These reports are useful for community groups who should know what probation is and does. It is a good public relations tool, representing the department's efforts on behalf of the community. And it presents factual data to the decision makers who determine the fiscal and administrative health of the department.

The following things are included in annual reports we examined.

- (1) A cover letter
- (2) A summary of yearly activity and department functions
- (3) Reports on special projects and services
- (4) Charts accompanied by brief narrative explanations, showing:
 - organizational structure of the department
 - convictions, probations, sentences executed (total; also by courts)
 - revocation data (motions filed; revocations granted and appealed)
 - offense categories (felony and misdemeanor)
 - presentence investigations (number completed, recommendations for and against probation, recommendations followed)
 - community resource referrals
 - offender profile data (age, race, education, employment, family, drug/alcohol dependency)
- (5) Financial reports
 - annual budget (all sources)
 - annual collections (all types)
 - disbursements
 - cost per probationer

Departments should adopt a system approach to planning that looks at their own functions and objectives in a broader context of the culture, society, economy, government, and service agencies which might help shape criminal justice both directly and indirectly.

Accounts & Records

RECOMMENDATIONS

- VII.19 Each department should designate and maintain written procedures and responsibility for the collection, safeguard and disbursement of monies. These procedures should be included in the department's administrative manual.
- VII.20 Collection and bookkeeping procedures should comply with acceptable accounting practices.
- VII.21 Reporting of all financial collections and disbursements should be submitted to district judges and other appropriate authorities as required.
- VII.22 Department administrators should check current records periodically to see that adequate data on probation are collected and recorded as outlined in the department manual.

The collections function in most Texas probation departments is not a small one. In 1975, over \$11,500,000 was collected by probation departments in five categories: probation supervisory fees, court costs, fines, court-ordered attorney's fees, and restitution (See Volume I, pp. 189-190). At least 16 probation departments indicate that they collect court costs and fines not only on probated cases but on all county or district court cases. In addition to collecting these fees, probation departments also disburse restitution (and may in some areas also disburse child support payments) for probationers under their supervision.

The types of collections which fall to probation departments vary considerably. In some jurisdictions all court costs, fines, attorney's fees, and so forth are handled by

court clerks. Procedures in this area are even inconsistent within the various jurisdictions of one department.

Our survey revealed that bookkeeping procedures, too, are highly individualized. Some departments were unable to sort out collections for district courts and those for county courts; some also did not differentiate between court costs and fines. With the escalation of court activities, however, it becomes increasingly necessary to provide for accurate accounting and for effective collection and disbursement of monies. This should be managed as a separate administrative function within the department.

Each department should designate both persons and procedures responsible for the collection, safeguarding and disbursement of all monies. Responsible personnel may or may not be bonded according to local preference. Procedures which should be written out and incorporated into the administrative manual include: maintenance of accounting records; preparation of fiscal reports; administrative review of fiscal policies; cooperation with auditors; and disbursement to designated parties.

Accounting procedures should insure orderly, accurate and complete records of money transactions. Books should be balanced daily, and closed monthly. Printed, prenumbered receipts will assist bookkeeping. Monthly and annual reports should be prepared and submitted to designated authorities.

The new statute revising fiscal responsibilities makes no changes in provisions governing probation fees or their collection.

All departments are encouraged to expedite collections, bookkeeping and movement of case loads by mailing out reporting forms to probationers under minimum supervision, accompanied by a self-addressed envelope to be returned to the department with payment enclosed. (See form provided for this purpose, p. 153.)

Management of case records is also an important function in the administration and delivery of services. Essential to sound probation practices is skillfull and systematic control over the (1) content, (2) utilization, (3) accessibility, (4) privacy, (5) preservation and (6) timely destruction of case records.

The usefulness of good records management is best summarized in the following passage from the New York State Manual of Probation Goals and Standards:

Cumulative case recording of pertinent and useful information is essential to the probation officer, supervisory personnel and administration for effective decision making. It also promotes meaningful feedback about case decisions.

The case record is an excellent tool for case analysis. It provides the necessary data to determine the effectiveness of the client's treatment program, counseling techniques, community resources, and assures continuity of service delivery in both inter and intra-agency transfer. It is also helpful to supervisory and administrative personnel in evaluating the probation officer's performance, workload, and the agency's record keeping methods.

Relative to research, the case record is an invaluable instrument with the potential for generating new ideas and understanding of human behavioral patterns.¹⁰

As pointed out in Chapter 3, a case history of contacts and activities is also essential in the event a court appearance becomes necessary, either to modify conditions or to revoke probation.

Departments should audit case records and evaluate the consistency with which information is being gathered and reported. Contents of each case file should be appropriately separated and identified. Case records should contain pre- and/or post-sentence investigation reports, all pertinent records from other sources, cumulative information on services rendered, and the rationale for all significant actions and decisions. Probation officers must develop higher standards for the consistency and detail of information recorded.

It is a good idea for departments to maintain an index card filing system in which active, inactive, and destroyed case records are noted.

Program Evaluation

RECOMMENDATIONS

- VII.24 Each department should insure its own effectiveness and performance using the recommendations outlined in this Plan as measures for evaluation. All professional staff should take part in program analysis and review at least annually.

Program evaluation should be an on-going feature of department administration, but formal assessment should also be scheduled on a regular basis. Personnel evaluations were discussed earlier in Chapter 4, Section 3. Departments should also, however, undertake annual program analysis and review, comparing agency operations with the goals and standards articulated by this Plan and by the department's administrative manual.

Administrators are encouraged to share the Master Plan with all field staff, to make them familiar with its contents and rationale, both in a general way and as they specifically apply to individual employees. The significance of this Plan will be realized in improvements in the field: it is vital that employees know and believe in high standards of work performance.

A common theme throughout this Plan has been the need for all departments to undertake assessment of their current functioning. Likewise, they should set for themselves specific goals, and standards, as well as measurable criteria by which they may gauge their performance against these goals and

standards. Program analysis and review should be used to make decisions about reallocating resources and revising policies and procedures that will improve efficiency and effectiveness.

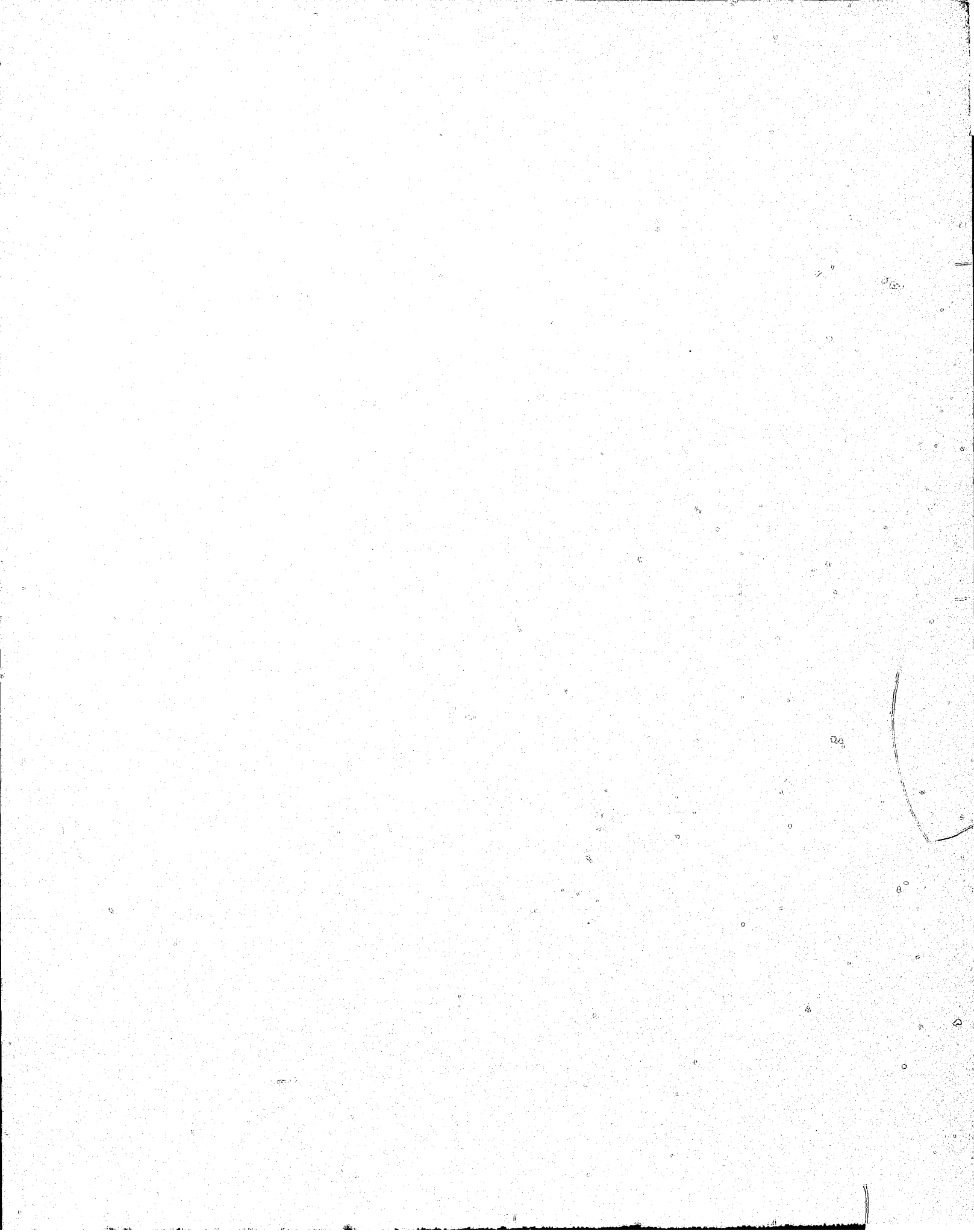


EXHIBIT VII-A
RANKING OF PREFERENCES *

FOR ADMINISTRATIVE AND FISCAL CHANGES IN PROBATION AUTHORITY AND STATUTES

	<u>PROBATION OFFICERS</u> (Q1, #111)	<u>DISTRICT JUDGES</u> (Q2, #22)	<u>COUNTY JUDGES</u> (Q3, #30)	<u>PROSECUTORS</u> (Q5, #12)	<u>DEFENSE ATTORNEYS</u> (Q6, #16)
A statewide adult probation system under the authority of the executive branch.	9	7	8	8	10
A combined adult parole/adult probation system within the executive branch.	10	9	9	9	9
A state adult probation system under the authority of the judicial branch.	4	2	6	5	3
Probation services under local judicial control, with a State service center to promote standards and uniformity.	1	1	1	1	1
Probation departments operated by county rather than by judicial district.	7	8	4	2	6
State subsidy of probation departments, based upon district population.	5	3	7	3	4
State subsidy based upon the number of probationers under care of the probation department.	2	4	2	4	2
State subsidy with State authority to withhold monies not being used for recommended programs.	6	10	10	6	8
State subsidy without State control over usage.	3	6	5	10	5
No change in present statutes or authority concerning adult probation.	8	5	3	7	7

*Preferences ranked from 1st choice (1) to last (10)

EXHIBIT VII-B

SENATE BILL 39

AN ACT

creating the Texas Adult Probation Commission and giving it certain powers and duties; providing a termination date for the commission unless continued by law; providing for the establishment of probation offices in each judicial district of the state and for community-based correctional programs; providing for funding; authorizing benefits for personnel of probation departments; amending the Code of Criminal Procedure, 1965, as amended, by adding Article 42.121 and amending Section 10, Article 42.12, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. The Code of Criminal Procedure, 1965, as amended, is amended by adding Article 42.121, to read as follows:

Article 42.121. Texas Adult Probation Commission
Subchapter A. General Provision

Section 1.01. Purposes. The purposes of this article are to make probation services available throughout the state, to improve the effectiveness of probation services, to provide alternatives to incarceration by providing financial aid to judicial districts for the establishment and improvement of probation services and community-based correctional programs.

and facilities other than jails or prisons, and to establish uniform probation administration standards.

Section 1.02. Definitions. In this article:

(1) 'Director' means the executive director of the Texas Adult Probation Commission.

(2) 'Commission' means the Texas Adult Probation Commission.

(3) 'Probation office' means the office established under Section 10(a), Article 42.12, Code of Criminal Procedure, 1965, as amended, to provide probation services in each judicial district.

(4) 'Employee in the criminal justice system' means a person employed as a peace officer, county attorney, district attorney, probation officer, parole officer, corrections officer, or any person employed by a court.

Subchapter B. Texas Adult Probation Commission

Section 2.01. Creation. The Texas Adult Probation Commission is hereby created.

Section 2.02. Membership. The commission shall consist of three judges of the district courts of Texas and two citizens of Texas who are not employed in the criminal justice system to be appointed by the Chief Justice of the Supreme Court of Texas and three judges of the district courts of Texas and one citizen of Texas not employed in the criminal

justice system to be appointed by the presiding judge of the Texas Court of Criminal Appeals.

Section 2.03. Terms of Office. (a) The first members appointed to the Board shall serve terms of two, four, and six years respectively, and until their successors are appointed. Thereafter each member shall serve for six years.

(b) The appointing authority shall draw lots to determine which members serve two, four, and six-year terms.

(c) If any judicial member of the commission ceases to hold his judicial office, or a citizen member resigns or expires, the appointing authority for his respective commission position shall appoint another member to serve the remainder of the unexpired term.

Section 2.04. Chairman. (a) The members of the commission shall elect a chairman from among its members.

(b) The chairman of the commission shall serve for a term of two years.

Section 2.05. Expenses. Members of the commission are not entitled to compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing their official duties as commission members.

Section 2.06. Meetings. (a) The Chief Justice of the Supreme Court of Texas shall call the first meeting of the commission in September, 1977.

(b) The commission shall hold regular quarterly meetings each year on dates fixed by the commission and such special

meetings as the commission determines necessary. The commission shall make rules providing for the regulation of its proceedings and for the holding of special meetings.

(c) A majority of the commission shall constitute a quorum.

(d) The commission shall keep a public record of its decisions at its general office.

Section 2.07. Executive Director, Employees. (a) The commission shall employ an executive director, whose qualifications shall comply with the standards required for a probation officer and who has a minimum of two years experience in the administration and supervision of adult probation services, and as many other employees as it needs to administer this article.

(b) The commission may delegate authority to the executive director to select employees of the commission.

Section 2.08. Expiration. Unless continued by law, the commission is abolished and this article expires effective September 1, 1987.

Subchapter C. Powers and Duties of Commission

Section 3.01. Standards for Probation Offices, Probation Officers, and Community-based Correctional Programs and Facilities. The commission shall promulgate reasonable rules:

(1) establishing minimum standards for case loads, programs, facilities, and equipment, and other aspects of the operation of a probation office necessary for the provision of adequate and effective probation services;

(2) establishing a code of ethics for probation officers and providing for the enforcement thereof.

Section 3.02. Records and Reports. The commission shall require each probation office in Texas to:

(1) keep such financial and statistical records as the commission deems necessary;

(2) submit periodic financial and statistical reports to the commission.

Section 3.03. Gifts and Grants. The commission may apply for and accept gifts or grants from any public or private source for use in maintaining and improving probation services in Texas.

Section 3.04. Intergovernmental Cooperation. The commission may cooperate and contract with the federal government, with governmental agencies of Texas and other states, and with political subdivisions of Texas to improve probation services.

Section 3.05. Inspections, Audits. The commission may inspect and evaluate any probation office and conduct audits of financial records at any reasonable time to determine compliance with the commission's rules, regulations, or standards.

Section 3.06. Studies. The commission may conduct or participate in studies of corrections methods and systems.

Section 3.07. Annual Report. The commission shall make a report to the governor and to the legislature each year covering its operations and the condition of probation services in Texas during the previous year and making whatever recommendations it considers desirable.

Section 3.08. Delegation of Authority. The commission may delegate to the director or to any other employee any authority given it by this article except the authority to make rules.

Section 3.09. Deposit of Money. All money received by the commission under Section 3.03 of this article shall be deposited to the credit of special funds, which shall be appropriated, from the General Revenue Fund, for the payment of state aid by this article and for the administration of this article.

Subchapter D. State-Aid to Probation Offices

Section 4.01. State-Aid Defined. 'State-aid' means funds appropriated by the state legislature to be used by the commission for financial assistance to judicial districts to achieve the purposes of this Act as stated previously in Section 1.01 of this Act and to conform to the standards and policies promulgated by the commission.

Section 4.02. Determination of Amount. The legislature shall determine and appropriate the amount of state-aid necessary to maintain and improve statewide probation services commensurate with the purposes as stated in Section 1.01 of this Act.

Section 4.03. Data for State-Aid. The district judge or judges in each judicial district shall present data to the commission, determined by the commission, which is necessary to determine the amount of state financial aid needed for use in maintaining and improving probation services and community-based correctional programs and facilities other than jails or prisons in the district.

Section 4.04. Reports. A judicial district receiving state-aid shall submit reports as required by the commission.

Section 4.05. Payment of State-Aid. (a) When the commission determines that a judicial district complies with its standards, the commission shall prepare and submit to the comptroller of public accounts a voucher for payment to the district the amount of state-aid to which it is entitled.

(b) The fiscal officer designated for the district shall deposit all state-aid received under this article in a special fund of the county treasury, to be used solely for the provision of adult probation services and community-based correctional programs and facilities other than jails or prisons.

Section 4.06. Refusal or Suspension of State-Aid. The

commission shall refuse or suspend payment of state-aid to any district that fails to comply with the commission standards. The commission shall provide for notice and a hearing in cases in which it refuses or suspends state-aid."

Sec. 2. Section 10 of Article 42.12 of the Code of Criminal Procedure, 1965, as amended, is amended to read as follows:

Section 10. (a) For the purpose of providing adequate probation services, the district judge or district judges having original jurisdiction of criminal actions in each judicial district in this state shall establish a probation office and employ, in accordance with standards set by the commission, district personnel as may be necessary to conduct presentence investigations, supervise and rehabilitate probationers, and enforce the terms and conditions of misdemeanor and felony probation. If two or more judicial districts serve a county, or a district has more than one county, one district probation department shall serve all courts and counties in the districts.

(b) Where more than one probation officer is required, the judge or judges shall appoint a chief adult probation officer or director, who, with their approval, shall appoint a sufficient number of assistants and other employees to carry on the professional, clerical, and other work of the court.

(c) To be eligible for appointment as an adult probation officer, a person who is not an adult probation officer on the effective date of this Act:

(1) must have acquired a bachelor's degree conferred by a college or university accredited by an accrediting organization recognized by the Coordinating Board, Texas College and University System; and

(A) one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or a related field that has been approved by the Texas Adult Probation Commission; or

(B) one year of experience in full-time case work, counseling, or community or group work in a social, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons that has been approved by the Texas Adult Probation Commission; and

(2) must not be otherwise disqualified by Section 31 of this article.

(d) The same person serving as a probation officer for juveniles may not be required to serve as a probation officer for adults and vice versa.

(e) Probation officers shall be furnished transportation or, alternatively, shall be entitled to an automobile allowance for use of personal automobile on official business.

(f) Personnel of the respective district probation departments shall not be deemed state employees and the

responsible judge or judges of a district probation department shall negotiate a contract with the most populous county within the judicial district for all district probation department staff to participate in that county's group insurance program; retirement plan; and personnel policies with regard to vacation credit, sick leave credit, holiday schedule, credit union, jury leave, military leave, etc. It shall be the responsibility of the county or counties comprising the judicial district or geographical area served by such district probation department to provide physical facilities, equipment, and utilities for an effective and professional adult probation and adult community-based correctional service.

(g) Where a judicial district has criminal jurisdiction in two or more counties, those counties may enter into agreement that the total expenses of such facilities, equipment, and utilities be distributed approximately in the same proportion as the population in each county bears to the total population of all those counties, according to the last preceding or any future federal census.

(h) The salaries of personnel, and other expenses essential to the adequate supervision of probationers, shall be paid from the funds of the judicial district. In all the instances of employment of probation officers, the responsible judges are authorized to accept state-aid, grants or gifts from other political subdivisions of the state or associations and foundations, for the sole purpose of financing adequate and

effective probationary programs and community-based correctional facilities other than jails or prisons in the various parts of the district. For the purposes of this Act, the municipalities of this state are specifically authorized to grant and allocate such sums of money as their respective governing bodies may approve to their appropriate county governments for the support and maintenance of effective programs. All grants, gifts, and allocations of the character and purpose described in this section shall be handled and accounted for separately from other public funds of the county.

Sec. 3. Section 4.05 of Article 42.121, Code of Criminal Procedure, 1965, as amended, and Section 2 of this Act take effect on September 1, 1978.

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

EXHIBIT VII-C
MODEL ANNUAL BUDGET FOR A HYPOTHETICAL PROBATION DEPARTMENT

(Figures Appropriate for 1977)
1725 persons under supervision

TOTAL COST OF DEPARTMENT OPERATIONS (All sources) \$654,776

Cost per day per person for supervision \$1.04

TOTAL DEPARTMENT BUDGET (Excludes office space, furnishings and supplies provided by counties) \$612,816

Budgeted cost per day per person for supervision \$0.97

BUDGET CATEGORIES

I. Personnel: Salaries and Fringe Benefits

<u>Position</u>	<u>No. of Positions</u>	<u>Average Salary</u>	<u>Total</u>
Director	1 @	\$22,000	\$ 22,000
Assistant Director	1 @	19,000	19,000
Administrative Assistant	2 @	17,500	35,000
Supervisor	2 @	16,500	33,000
Probation Officer	11 @	14,700	161,700
Assistant Probation Officer	6 @	11,800	70,800
Office Manager	1 @	10,800	10,800
Assistant Office Manager	1 @	9,200	9,200
Secretary	4 @	9,200	36,800
Clerk	6 @	8,200	49,200
Bookkeeper	1 @	10,800	10,800
Assistant Bookkeeper	1 @	9,200	9,200
TOTAL	37		\$467,500 (76%)*
Fringe benefits, figured at 14% of Total Salaries			\$ 65,450 (11%)*
TOTAL PERSONAL COSTS			\$532,950 (87%)*

II. Travel

In District	- \$100.00/month/professional @ 23 positions	\$ 27,600
Out of District	- \$0.16/mile @ 100,000 miles	16,000
Subsistence	- \$25.00/day @ 15 days for 23 positions	8,625
TOTAL		\$ 52,225 (9%)*

*Percentage of total budgeted expenses under this category.

III. Purchase of Services

Urine Sample Analysis - \$3.50/sample @ 190 samples/month	\$ 7,966
Diagnostic, residential and non-residential services \$50/month @ 31 individuals	18,600
	<u> </u>
TOTAL	\$ 26,566 (4%)*

IV. Professional Training and Expenses

Professional Dues - \$25/year @ 23 positions	\$ 575
Publications	500
	<u> </u>
TOTAL	\$ 1,075
TOTAL BUDGETED EXPENSES	\$612,816

UNBUDGETED EXPENSES (county responsibility)

Office Space (rental and maintenance) - \$5.40/sq. ft./year @ 4,900 sq. ft.	\$ 26,460
Office Supplies and Services	4,000
Equipment (purchase and maintenance)	1,800
Telephone (@ \$290/month)	3,500
Postage	3,200
	<u> </u>
TOTAL (7% above budgeted costs)	\$ 41,960

*Percentage of total budgeted expenses under this category.

ADULT PROBATION SERVICES MONTHLY REPORT

COUNTY: _____

DATE OF REPORT: _____

1. TOTAL CASES UNDER SUPERVISION AS OF THIS DATE**A. Total felony cases** _____

1. # male _____
2. # female _____
3. # Black _____
4. # Mexican American _____
5. # Anglo _____
6. # age 17 - 20 years _____
7. # age 21 - 25 years _____
8. # age 26 - 30 years _____
9. # age 31 - 35 years _____
10. # over 35 years _____

B. Total misdemeanor cases _____

1. # male _____
2. # female _____
3. # Black _____
4. # Mexican American _____
5. # Anglo _____
6. # age 17 - 20 years _____
7. # age 21 - 25 years _____
8. # age 26 - 30 years _____
9. # age 31 - 35 years _____
10. # over 35 years _____

2. TOTAL NEW CASES**A. New felony cases** _____

1. # local jurisdiction _____
2. # intrastate courtesy supervision _____
3. # interstate courtesy supervision _____
4. # jurisdictional transfer _____

B. New misdemeanor cases _____

1. # local jurisdiction _____
2. # intrastate courtesy supervision _____
3. # interstate courtesy supervision _____
4. # jurisdictional transfer _____

3. TOTAL CASES CLOSED**A. Felony cases closed** _____

1. # expired _____
2. # revoked _____
3. # deceased _____
4. # courtesy supervision cancelled _____
5. # jurisdictional transfers _____

B. Misdemeanor cases closed _____

1. # expired _____
2. # revoked _____
3. # deceased _____
4. # courtesy supervision cancelled _____
5. # jurisdictional transfers _____

4. REASONS FOR REVOCATION**A. Felony cases revoked** _____

1. # new felony offenses _____
2. # new misdemeanor offenses _____
3. # absconding _____
4. # nonreporting _____
5. # nonpayment of monies _____
6. # other condition violations _____

B. Misdemeanor cases revoked _____

1. # new felony offenses _____
2. # new misdemeanor offenses _____
3. # absconding _____
4. # nonreporting _____
5. # nonpayment of monies _____
6. # other condition violations _____

5. CASES PENDING REVOCATION AS OF THIS DATE**A. Felony cases pending** _____

1. # in jail _____
2. # on bond _____
3. # with warrants/summonses outstanding _____

B. Misdemeanor cases pending _____

1. # in jail _____
2. # on bond _____
3. # with warrants/summonses outstanding _____

6. CASES WITH MULTIPLE PROBATIONARY SENTENCES

A. Felony cases_____

1. # prior felony probation,
now expired_____
2. # prior misdemeanor probation,
now expired_____
3. # prior felony probation,
now revoked_____
4. # prior misdemeanor probation,
now revoked_____
5. # concurrent probation,
felony offense_____
6. # concurrent probation,
misdemeanor offense_____

B. Misdemeanor cases_____

1. # prior felony probation,
now expired_____
2. # prior misdemeanor probation,
now expired_____
3. # prior felony probation,
now revoked_____
4. # prior misdemeanor probation,
now revoked_____
5. # concurrent probation,
felony offense_____
6. # concurrent probation,
misdemeanor offense_____

7. CASES WITH PRIOR CONVICTIONS (NOT PROBATED)

A. Felony convictions_____

B. Misdemeanor convictions_____

8. PRETRIAL RELEASE CASES SUPERVISED BY DEPARTMENT

A. Felony cases_____

B. Misdemeanor cases_____

9. CASES DIVERTED PRIOR TO TRIAL & SUPERVISED BY THIS DEPARTMENT

A. Felony cases_____

B. Misdemeanor cases_____

10. PRESENTENCE INVESTIGATIONS COMPLETED

A. Felony cases_____

B. Misdemeanor cases_____

11. COMMUNITY RESOURCE REFERRALS

A. Felony cases_____

B. Misdemeanor cases_____

12. PERSONNEL LOSSES

A. Total lost_____

1. # administrators_____
2. # supervisors_____
3. # probation officers_____
4. # paraprofessionals_____
5. Other_____

B. Reasons for loss

1. # promoted_____
2. # left probation work_____
3. # retired_____
4. # deceased_____
5. # terminated_____

13. PERSONNEL GAINS

A. Total added_____

1. # administrators_____
2. # supervisors_____
3. # probation officers_____
4. # paraprofessionals_____
5. Other_____

B. Reasons for gain

1. # replacements_____
2. # new positions_____

FOOTNOTES TO CHAPTER SEVEN

1. Ex parte Tate (1971) 471 S.W. 2d 404; Preston A. Tate v. Short (1971) 401 U.S. 395, 91 S. Ct. 668, 28 L. Ed 2d 130 & 222; most recently, Herrington v. State (1976) 534 S.W. 2d 331 ("The State must show that the defendant had the means to pay and that nonpayment was intentional.")
2. ABA, Standards Relating to Probation (NY:1970), p. 75.
3. Ibid.
4. Ibid.
5. Ibid, p. 74.
6. President's Commission on Law Enforcement and the Administration of Justice. Task Force Report: Corrections, p. 35.
7. Ibid.
8. ABA, p. 91.
9. NAC, Corrections, Standard 15.3, "Design Characteristics of a Correctional Information System," pp. 523-524.
10. New York State Division of Probation, Manual of Probation Goals and Standards, (Albany, New York), 1975, XX-2.

END