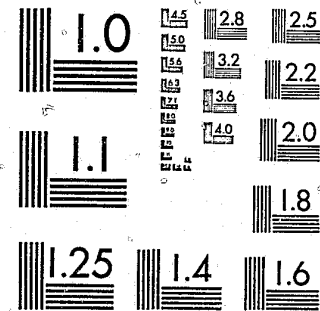


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THE COMMUNITY SERVICE
SENTENCING PROGRAM
IN HAWAII

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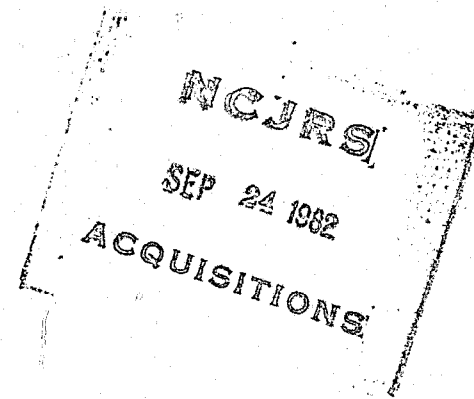
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THE
COMMUNITY SERVICE SENTENCING PROGRAM
IN HAWAII

June 1, 1979 - May 31, 1980



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Volunteers in Public Service to the Courts
Office of Administrative Director of the Courts

THE COMMUNITY SERVICE SENTENCING PROGRAM
IN HAWAII

June 1, 1979 - May 31, 1980

by
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THE COMMUNITY SERVICE SENTENCING PROGRAM

June 1, 1979 through May 31, 1980

MAJOR FINDINGS

- 1) A statewide total of 1286 offenders were sentenced to perform community service.
- 2) These offenders performed a total of 40,635 hours of community service, an equivalent of 5079 8-hour man-days.
- 3) The CSSP had a success rate of approximately 90% regarding compliance with community service sentences.
- 4) The CSSP had a recidivism rate of 9%. This percentage indicates the number of offenders sentenced to community service from June 1, 1978 through May 31, 1979 who were convicted of subsequent offenses.
- 5) Community service was ordered for a wider range of offenses in comparison with the same period in 1978-79.
- 6) There were generally stiffer community service sentences in comparison with the same period in 1978-79. Family Court in particular showed a marked increase in the number of hours sentenced for specific types of offenses.

INTRODUCTION

In recent years, criminal justice agencies throughout the country have devoted increased attention to sentencing alternatives. Concern for traditional sanctions' effects on juvenile and first-time offenders, awareness that incarceration may contribute little towards rehabilitation, overcrowding in our penal institutions, and rising prison costs have caused the Courts to look towards feasible alternatives in dealing with law violators. One such option is Community Service Sentencing.

The Community Service Sentencing Program (CSSP) involves a judge requiring a convicted law violator, as part or all of his sentence, to perform a specified number of hours of community service for a public or non-profit agency--often in lieu of a fine or incarceration.

Community service in lieu of a fine is a valuable recourse in cases where monetary penalty would either prove too heavy a burden for the offender or constitute no burden at all. When a fine is extremely difficult to pay--especially if an offender is unemployed, indigent, or on a fixed income--community service would be a reasonable alternative. The offender (and his family, if he has one) could thereby avoid financial hardship, debt, and the possible humiliation of having to ask friends and relatives for money. Conversely, when an offender is well-off financially, a fine would constitute only a small inconvenience rather than serve any deterrent or rehabilitative purpose. In such cases, community service would make the

offender more aware of the consequences of his actions and let him know that he cannot get away with law violations with a mere "slap on the wrist."

In this vein, community service can provide for the uniform disposition of justice across income lines. While for someone financially well-off a fine may prove a mere "drop in the bucket," for a less economically fortunate offender the same fine for the same offense may seriously deplete his and/or his family's finances. This relative inequality in sanctions can be remedied by using community service sentencing. Both prince and pauper are capable of serving their community.

Community service as an alternative to a fine should also be viewed in terms of program implementation costs versus benefits. When an offender is sentenced to community service in lieu of a fine, the State loses the monies it would normally receive if the fine were imposed. This loss of revenue can be expected to increase as the program expands.

Community service in lieu of incarceration is an acceptable sanction when a jail term would impose an undue hardship upon an offender. Depending on the individual case, incarceration may be inappropriate. The offender would not only face losing his job and income, but opportunities for future employment may be jeopardized as well. If he has dependents, they too would be adversely affected. Especially in the case of first-time offenders and those not likely to recidivate, who may not warrant a jail term, community service can be a viable sentencing alternative.

The CSSP provides the Court with an additional sentencing alternative, permitting judges to make wider use of their discretionary powers. As a result, a judge can better arrive at a disposition appropriate to the offense--in other words, making the punishment fit the crime. A prime example is the District Court of the First Circuit's practice of referring individuals convicted of littering to the State Litter Control Program.

Especially regarding juvenile and unemployed offenders, community service can provide job skills and/or work experience which may be useful in obtaining future employment. Even if no specific skills are acquired, the offender will nevertheless gain work experience and the responsibilities that a job incurs--such as being on time, following instructions, performing his work in a satisfactory manner, getting along with supervisors and co-workers, etc. Hopefully such skills and experience may render an offender more employable, giving him a better opportunity to be a contributing member of the community.

Community service can also help an offender develop a greater sense of responsibility--both for himself and the community. The offender finds that he, and not the Court or the police, is primarily responsible for carrying out his sentence. It is up to him to perform his required hours by the deadline. Furthermore, by doing something to benefit the community as "symbolic restitution" for his actions taken against it, the offender may be made to feel more a part of the community than before and take greater responsibility for its welfare in the future.

As well as directly benefiting the community by the work done in its service, the CSSP also enables the agencies to better serve the community. With the additional manpower provided by the court referrals, agencies benefit in terms of increased productivity, greater efficiency, and lessening of work loads. With today's emphasis on fiscal restraint, agencies also have an incentive to accept work placements as a possible means of cutting costs. Furthermore, some offenders choose to continue work at the agency after completing their required hours--thereby providing the agency with a genuinely dedicated volunteer or even a paid worker.

Community Service Sentencing--although not a panacea for all types of offenders and offenses--appears to be a feasible, beneficial, and worthwhile sentencing alternative. The CSSP in Hawaii will no doubt be the focus of increased attention as its present expansion continues.

REFERRAL PROCEDURES

Once sentenced to perform community service, a client is placed in a work agency by the Volunteers in Public Service office if from the First Circuit (Oahu) or by his probation officer if from the Second, Third, or Fifth Circuits.

The client is first screened to determine a suitable placement: Skills, health, physical limitations, time availability, transportation, child care needs, past history of mental health services, probation officer's assessment of attitude/motivation, and any other factors relevant to a work assignment are considered. The client may also indicate a preference for type of work, agency, and location. Although every effort is made to honor these preferences as well as matching the placement to the client's skills and interests, it is not always possible to do so due to availability of placement openings. In some cases an effort is made to provide a work assignment appropriate to the offense, such as placing a convicted litterer in the State Litter Control Program. Ideally, the placement should provide for maximum benefit to both the client and community.

The agency is then contacted, terms of the placement are arranged, and both the client and agency are made aware of their responsibilities. An agency representative is charged with filling out a work verification form which is returned to the Court upon completion of the community service. He is also responsible for reporting non-attendance, unsatisfactory work performance, or any other problems posed by the client. Agencies are monitored by

program staff and trained court volunteers on a weekly to semi-monthly basis. Follow-up contact is usually made to the client to ascertain any difficulties and to better elicit compliance.

If a client fails to perform his community service within the stipulated time period (though some leeway can be given), he must reappear in court. He may be granted an extension, sentenced to additional hours of community service, or charged with contempt or probation violation. In the latter case, the client may be fined or incarcerated.

METHODOLOGY

The program and demographic profiles were obtained by examining the court records of offenders sentenced to community service between June 1, 1979 and May 31, 1980. The information was coded and run through a computer, providing the statistics included herein.

The success rate was determined by examining the court records of those offenders sentenced to community service between June 1, 1979 and May 31, 1980 to ascertain the percentage of offenders who complied with their community service sentence.

The recidivism rate was determined by examining the court records of those offenders sentenced to community service between June 1, 1978 and May 31, 1979 to ascertain the percentage of offenders who recidivated. When access to court records was not possible, information was obtained from probation officers.

Information included in the section on liability was obtained upon request from court referral programs on the mainland which utilize community service sentencing.

Other information included in this report was obtained from various sources in the course of conducting this study.

The percentages appearing in the table summaries apply only to those cases for which the appropriate data was available. These figures were frequently rounded-off to the nearest whole percent.

SUCCESS RATE

The CSSP has a success rate of approximately 90%--a figure fairly consistent among the separate courts--regarding offenders' compliance with their community service sentences. It is difficult to obtain a more precise percentage due to incomplete records.

The major problem encountered in effecting compliance is lack of cooperation on the part of some offenders. As in any program of this size and nature, there is bound to be a minority who will take an adamant attitude towards performing community service. Some will exhibit poor conduct at the work agency, failing to perform their assigned duties and giving their supervisors a "hard time." Others report for work sporadically or do not show up at all.

When an offender behaves in such a manner, ignores all warnings as to the consequences of non-compliance, and all efforts to have him make good on his sentence prove unsuccessful, there is little which can be done to elicit compliance.

RECIDIVISM RATE

The following recidivism information applies to offenders sentenced to community service between June 1, 1978 and May 31, 1979. The percentages appearing below indicate the number of offenders from the respective populations who were convicted of subsequent offenses.

	COURT			
	FAMILY	DISTRICT	CIRCUIT	TOTAL
NUMBER OF OFFENDERS	102	548	49	699
NUMBER OF RECIDIVISTS	16	44	2	62
RECIDIVISM RATE (%)	16%	8%	4%	9%

Family Court had a recidivism rate of 16%, District Court 8%, and Circuit Court 4%--resulting in a 9% recidivism rate for the CSSP as a whole.

Although neither the sole nor necessarily the best indicator of a successful program, a recidivism rate is commonly viewed as such in the public mind.

LIABILITY

A major concern of the Community Service Sentencing Program is the question of liability in the event an offender is injured or commits tortious acts while performing his community service. There are no definitive laws in the State of Hawaii as to who is legally liable in such cases. However, the State Attorney General's office has formulated a written opinion (referred to in this section and included in the appendix) regarding this matter.

116 court referral programs on the mainland which utilize community service sentencing were contacted and asked how they have addressed the liability issue. Of these programs, 19 provided a useful response. Incidents involving injury or torts were extremely rare, most respondents indicating that such an event had never occurred. A number of these programs found themselves in a situation similar to Hawaii's CSSP: Since there have been no incidents and the question of liability has not been a deterrent in recruiting agencies, the matter probably will not be resolved until an event does occur and a litigation arises. Therefore, some responses were acknowledged as informed opinion or semi-official policy since there was nothing in the statutes. These responses are included along with the more definitive ones to illustrate the range of possible alternatives regarding liability.

The Status of the Client

Ascertaining the status of the client--whether he should be regarded as a volunteer, employee, or otherwise--is essential in determining liability. One argument held that since the client's community service is part of his debt to society, volunteer status is justified. An opposing contention stated that being under the direction of the work agency much like an employee, the client should be regarded as such.

Seven mainland programs indicated that they consider the client strictly a volunteer. This status often prevented the client from suing for damages or was used as a rationale for avoiding the liability question altogether.

The Hawaii State Attorney General's opinion states that the client shall not be considered an employee of the State or agency within the meaning of the State Tort Liability Act (Chapter 662, H. R. S.). This status precludes liability--with certain exceptions to be discussed later--on the part of the State or agency, including that under Workmen's Compensation.

Workmen's Compensation

It was held by 17 out of 19 respondents that Workmen's Compensation would not cover injuries sustained by a client. The general rationale was that to be eligible there would have to be an employer-employee relationship between the State or agency and the client based upon legal consideration--and such consideration is absent. The State of Massachusetts does cover clients under Workmen's Compensation, and California has permissive legislation under

which a client can be covered if the agency adopts the appropriate resolution.

As previously stated, the Hawaii State Attorney General's opinion holds the client ineligible for Workmen's Compensation.

Liability Release

Three respondents indicated that their clients sign a liability release. However, a response from a judge indicated that in her state (Georgia) such a release had not been tested in court. It may be argued that it is signed "under duress"--that is, the client has no choice but to sign--and as such the document may not be legally binding.

Hawaii's CSSP in the First Circuit also requires, as part of its Emergency Medical Consent Form, that the client "assume full responsibility for the cost of medical care which may arise from any accidental injury/ies." However, this responsibility does not include injuries arising from "gross negligence, willful negligence, or the intentional acts of the community service supervisor(s)."

Liability of the Client, Agency, and Government

Three respondents indicated that the client should be responsible only for injuries arising from his own carelessness and not those due to supervisory negligence. In the latter case, the agency should assume liability.

The Hawaii State Attorney General's opinion adopts a similar view in that the client shall be liable for his own injuries or those to third parties unless such injury was caused by "the negligent or wrongful act or omission of any employee of the State

while acting within the scope of his office or employment." Negligence was defined (in the same document) as:

The failure to exercise the degree of care demanded by the circumstances, or as the want of that care which the law prescribes under the particular circumstances existing at the time of the act or omission which is involved. Otherwise stated, negligence consists in the failure to exercise the care which an ordinarily prudent person would use under the circumstances in the discharge of duty then resting upon him to avoid inflicting injury on or to protect the aggrieved party from injury. More particularly, actionable negligence is the failure of one owing a duty to another to do what a reasonable and prudent person would ordinarily have done under the circumstances, or doing what such a person would not have done, which omission or commission is the proximate cause of injury to the other.

If such negligence was the case, the client would have recourse to sue the State and/or agency.

One respondent stated that the government would pay damages following legislative evaluation and appropriation on a case-by-case basis. The Hawaii State Attorney General's opinion also indicates the injudiciousness of formulating a predetermined blanket policy regarding liability: "The extent of liability would depend on a multitude of factors and therefore cannot be determined in advance without reference to the factual situation." Such determination would be made in a court of law rather than the legislature, however.

While two respondents held the client responsible for any and all injuries sustained, four programs regarded the agency completely liable for injuries--one rationale being that any agency accepting the work assignment of "such persons" also assumes the responsibility and risk of injury liability.

Tort Liability

All of the four respondents who addressed the issue of tort liability held the agency liable for tortious acts committed by the client while performing his community service--an opinion shared by the State Attorney General's office:

Although the convicted offender would not be considered an employee of the participating agency, the agency would still owe a duty to the offender, as well as the public, to act reasonably in its relations to the defendant. Thus the agency would be required to exercise sufficient supervision over the offender to protect him from dangers to himself and to third parties.

Insurance Coverage for Clients and Agencies

Since clients and agencies are reluctant to acquire insurance applicable to community service, the question was raised as to whether the State could provide them with coverage. No respondents indicated that such a practice was in effect. When Hawaii's CSSP inquired about insuring clients and agencies, no insurance company would underwrite such a policy. The clients were considered too high a risk group.

Liability of the Court

Liability on the part of the Court was, without exception, nonexistent. All respondents indicated that under no circumstances is a judge held liable for a disposition. The Hawaii State Attorney General's opinion is in agreement, stating that a judge cannot be held civilly liable for a judicial disposition--however erroneous said disposition may have been--as long as he had proper jurisdiction over the case.

PROGRAM PROFILE

TABLE 1a: NUMBER OF OFFENDERS REFERRED TO THE CSSP

JUDICIAL CIRCUIT	FAMILY	COURT		TOTAL
		DISTRICT	CIRCUIT	
First	226	732	41	999
Second	-	5	10	15
Third	25	187	28	240
Fifth	27	-	5	32
TOTAL	278	924	84	1286

From a statewide total of 1286 referrals (as indicated in the bottom right-hand corner of the table), 999--more than 77%--were from the First Circuit, the Honolulu District Court alone accounting for over half (57%) of the referrals statewide. The Third Circuit had the second-highest number of community service referrals, which amounted to 18.7% of the total. The Second and Fifth Circuits accounted for 1.2% and 2.5% of the cases respectively. District Court provided 71.9% of the total referrals, followed by Family Court with 21.6% and Circuit Court with 6.5%.

TABLE 1b: HOURS SENTENCED AND EQUIVALENT MAN-DAYS

COURT	HOURS	MAN-DAYS
Family	9,286	1160
District	24,792	3099
Circuit	6,557	820

Due to its relatively higher number of referrals, District Court accounted for 61% of the total number of hours sentenced. Family Court followed with 23%, and Circuit Court accounted for 16% of the total hours.

TABLE 2: TYPE OF OFFENSE

OFFENSE TYPE	COURT			TOTAL
	FAMILY	DISTRICT	CIRCUIT	
Against Person	49	50	8	107
Against Habitation	66	8	7	81
Against Property	141	351	40	532
Against the Family	1	-	1	2
Sex and Related	3	55	-	58
Against Public Order	6	37	7	50
Against Public Admin.	2	35	2	39
Against Public Health	5	51	17	73
Traffic	4	329	1	334
Status Offenses	1	-	-	1
(No Data)	(-)	(8)	(1)	(9)

The most-frequent offense type was against property (42% of all offenses), followed by traffic (26%) and offenses against person (8%). The least-frequent offense types were status offenses and offenses against the family.

TABLE 3: FAMILY COURT, OFFENSE TYPE FREQUENCIES AND AVERAGE HOURS

OFFENSE TYPE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Against Person	49	40	17.6%
Against Habitation	66	34	23.7%
Against Property	141	31	50.1%
Against the Family	1	30	0.4%
Sex and Related	3	70	1.0%
Against Public Order	6	22	2.0%
Against Public Admin.	2	35	0.7%
Against Public Health	5	25	1.8%
Traffic	4	31	1.4%
Status Offenses	1	20	0.4%

The most-frequent offense type in Family Court was against property with just over half of all referrals, followed by offenses against habitation (24%) and against person (18%). The remaining categories each accounted for less than 3% of the Family Court referrals.

TABLE 4: FAMILY COURT, OFFENSE FREQUENCIES AND AVERAGE HOURS

OFFENSE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
<u>AGAINST PERSON</u>			
Harassment	1	10	0.4%
Negligent Homicide I	1	100	0.4%
Robbery II	11	35	4.0%
Assault I	3	134	1.1%
Assault II	5	37	1.8%
Assualt III	25	32	9.0%
Reckless Endangering III	1	40	0.4%
Terroristic Threatening	2	19	0.7%
<u>AGAINST HABITATION</u>			
Burglary I	35	35	12.6%
Burglary II	20	39	7.2%
Criminal Trespass I	2	20	0.7%
Criminal Trespass II	3	21	1.1%
Simple Trespass	2	29	0.7%
Attempted Burglary I	3	33	1.1%
Attempted Burglary II	1	12	0.4%
<u>AGAINST PROPERTY</u>			
Theft I	33	45	11.9%

TABLE 4 (continued):

OFFENSE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Theft II	23	29	8.3%
Theft III	35	23	12.6%
Unauthorized Control of a Propelled Mo- tor Vehicle (UCPV)	33	28	11.9%
Forgery II	4	26	1.4%
Criminal Tampering II	1	20	0.4%
Criminal Property Damage II	2	30	0.7%
Criminal Property Damage III	2	39	0.7%
Criminal Property Damage IV	2	30	0.7%
Attempted Theft I	2	39	0.7%
Attempted Theft II	1	30	0.4%
Attempted Theft III	1	20	0.4%
Attempted UCPV	1	20	0.4%
<u>AGAINST THE FAMILY</u>			
Spouse Abuse	1	30	0.4%
<u>SEX AND RELATED</u>			
Rape II	1	40	0.4%
Rape III	1	100	0.4%
Promoting Prostitution	1	(no data)	0.4%
<u>AGAINST PUBLIC ORDER.</u>			
Registration of Firearms	1	30	0.4%

TABLE 4 (continued):

OFFENSE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Unlawful Place to Keep Firearms	2	21	0.7%
Carrying Firearm Without Permit	1	30	0.4%
Carrying Deadly Weapon	1	15	0.4%
Fireworks Control	1	15	0.4%
<u>AGAINST PUBLIC ADMIN.</u>			
Disobedience to Police Officer	1	50	0.4%
Probation Violation	1	20	0.4%
<u>AGAINST PUBLIC HEALTH</u>			
Promoting a Detrimen- tal Drug II	1	25	0.4%
Promoting a Detrimen- tal Drug III	4	25	1.4%
<u>TRAFFIC</u>			
No Operator's License	2	28	0.7%
Exhibition of Speed	1	20	0.4%
Reckless Driving	1	50	0.4%
<u>STATUS OFFENSES</u>			
Beyond Parental Control	1	20	0.4%

TABLE 5: DISTRICT COURT, OFFENSE TYPE FREQUENCIES AND AVERAGE HOURS

OFFENSE TYPE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Against Person	50	40	5.4%
Against Habitation	8	30	0.9%
Against Property	351	26	38.0%
Sex and Related	55	22	6.0%
Against Public Order	37	26	4.0%
Against Public Admin.	35	19	3.8%
Against Public Health	51	27	5.5%
Traffic	329	28	35.6%

The most-frequent offense types in District Court were property and traffic offenses, both having over 300 referrals each and comprising 38% and 36% of District Court cases respectively. Each of the remaining offense types amounted to less than 6% of the District Court total.

The largest average number of hours sentenced was for offenses against person with 40 hours. The remaining categories each had between 19 and 30 hours sentenced on the average, offenses against public administration having the least.

TABLE 6: DISTRICT COURT, OFFENSE FREQUENCIES AND AVERAGE HOURS

OFFENSE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Harassment	19	24	2.1%
Negligent Homicide II	6	100	0.6%
Assault III	24	37	2.6%
Reckless Endangering III	1	40	0.1%
<u>AGAINST HABITATION</u>			
Criminal Trespass I	4	29	0.4%
Criminal Trespass II	2	50	0.2%
Simple Trespass	1	4	0.1%
<u>AGAINST PROPERTY</u>			
Welfare Fraud	5	60	0.5%
Theft II	62	54	6.7%
Theft III	204	21	22.1%
Forgery III	1	20	0.1%
Negotiating a Worthless Non-Negotiable Instrument	4	45	0.4%
Criminal Property Damage I	1	20	0.1%
Criminal Property Damage III	4	42	0.4%
Criminal Property Damage IV	3	30	0.3%

TABLE 6 (continued):

OFFENSE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Fraudulent Use of Credit Card	1	30	0.1%
Criminal Tampering	1	16	0.1%
Criminal Littering	59	4	6.4%
Attempted Theft II	1	40	0.1%
Other	6	26	0.6%
<u>SEX AND RELATED</u>			
Prostitution	43	23	4.7%
Open Lewdness	12	19	1.3%
<u>AGAINST PUBLIC ORDER</u>			
Disorderly Conduct	29	23	3.1%
Carrying a Deadly Weapon	2	50	0.2%
Unlawful Place to Keep Firearms	5	33	0.5%
Other	1	10	0.1%
<u>AGAINST PUBLIC ADMIN.</u>			
Contempt	11	20	1.2%
Obstructing Government Operations	1	20	0.1%
False Report to Law Enforcement Authorities	3	31	0.3%
Resisting Arrest	1	64	0.1%
Refusing an Order to Stop a Motor Vehicle	2	15	0.2

TABLE 6 (continued):

OFFENSE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Hindering Prosecution	1	16	0.1%
Disobeying a Police Officer	2	24	0.2%
Camping Without a Permit	13	14	1.4%
Other	1	10	0.1%
<u>AGAINST PUBLIC HEALTH</u>			
Promoting a Detri-mental Drug II	5	24	0.5%
Promoting a Detri-mental Drug III	27	23	2.9%
Promoting Intoxi-cating Compounds	11	24	1.2%
Gambling	4	36	0.4%
Drinking in Public	3	13	0.3%
Attempted Promoting Intoxicating Com-pounds	1	160	0.1%
<u>TRAFFIC</u>			
Accident Involving Damage to Prop-erty	3	24	0.3%
Careless Driving	8	25	0.9%
Disregarding Stop Sign	1	5	0.1%
Driving in Opposite Direction on One-Way Street	1	60	0.1%

TABLE 6 (continued):

OFFENSES	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Driving Under the Influence	32	44	3.5%
Improper Left Turn	1	2	0.1%
Prohibited U-Turn	1	10	0.1%
Speeding	55	20	6.0%
Leaving the Scene	3	15	0.3%
Expired Meter	4	38	0.4%
Fraudulent Use of License Plates	4	31	0.4%
No Operator's License	70	26	7.6%
Driving With Suspended License	2	25	0.2%
No No-Fault Insurance	73	34	7.9%
No License Plates	1	8	0.1%
Parking Violation	11	35	1.2%
Untaxed Vehicle	1	29	0.1%
No Safety Sticker	9	18	1.0%
No License on Person	14	19	1.5%
Disregarding Traffic Control Signal	7	22	0.8%
No Instruction Permit	3	28	0.3%
Inattention to Driving	4	12	0.4%
Delinquent Motor Vehicle Weight Tax	2	24	0.2%
Failure to Give Immediate Notice	3	71	0.3%

TABLE 6 (continued):

OFFENSE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Fraudulent Use of Weight Tax	1	48	0.1%
Reckless Driving	2	20	0.2%
Failure to Render and Give Aid	3	23	0.3%
Exhibition of Speed	1	16	0.1%
Other	9	19	1.0%

TABLE 7: CIRCUIT COURT, OFFENSE TYPE FREQUENCIES AND AVERAGE HOURS

OFFENSE TYPE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Against Person	8	64	9.5%
Against Habitation	7	71	8.3%
Against Property	40	91	47.6%
Against the Family	1	20	1.2%
Against Public Order	7	86	8.3%
Against Public Admin.	2	40	2.4%
Against Public Health	17	68	20.2%
Traffic	1	50	1.2%

In Circuit Court nearly half (48%) of the offenses were against property, followed in frequency by offenses against public health (20%). The other categories each comprised less than 10% of the Circuit Court total--with traffic, family, and public administration offenses being practically nonexistent.

The largest average number of hours sentenced was for property offenses (91 hours), followed by offenses against public order--all of which were firearms violations--with an average sentence of 86 hours. The least average number of hours sentenced were for offenses against the family, public administration, and traffic.

TABLE 8: CIRCUIT COURT, OFFENSE FREQUENCIES AND AVERAGE HOURS

OFFENSE	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
Manslaughter	1	200	1.2%
Negligent Homicide I	1	50	1.2%
Assault II	1	(No data)	1.2%
Assault III	4	44	4.8%
Terroristic Threatening	1	24	1.2%
<u>AGAINST HABITATION</u>			
Burglary I	2	150	2.4%
Burglary II	4	39	4.8%
Criminal Trespass I	1	40	1.2%
<u>AGAINST PROPERTY</u>			
Welfare Fraud	3	115	3.6%
Theft I	30	89	35.7%
Unauthorized Control of a Propelled Motor Vehicle (UCPV)	2	65	2.4%
Forgery II	1	200	1.2%
Fraudulent Use of Credit Card	2	100	2.4%
Attempted Theft II	1	30	1.2%
Attempted Theft III	1	80	1.2%
<u>AGAINST THE FAMILY</u>			
Spouse Abuse	1	20	1.2%

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TABLE 8 (continued):

OFFENSES	NUMBER OF OFFENDERS	AVERAGE HOURS	PERCENT OF REFERRALS
<u>AGAINST PUBLIC ORDER</u>			
Carrying a Deadly Weapon	1	50	1.2%
Ownership or Possession (of any firearm or ammunition) by Person Convicted of Certain Crimes	3	113	3.6%
Registration of Firearms	2	80	2.4%
Other Firearms	1	50	1.2%
<u>AGAINST PUBLIC ADMIN.</u>			
Escape II	1	50	1.2%
Other	1	30	1.2%
<u>AGAINST PUBLIC HEALTH</u>			
Promoting a Dangerous Drug III	1	50	1.2%
Promoting a Detrimental Drug I	9	69	10.7%
Promoting a Detrimental Drug II	5	52	6.0%
Promoting a Detrimental Drug III	2	113	2.4%
<u>TRAFFIC</u>			
Driving Under the Influence	1	50	1.2%

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TABLE 9: FREQUENCY OF HOURS

HOURS	FAMILY	COURT		TOTAL
		DISTRICT	CIRCUIT	
1-9	7	143	-	150
10-19	33	273	-	306
20-29	80	162	4	246
30-39	74	147	7	228
40-49	39	66	5	110
50-59	13	48	28	89
60-69	22	31	2	55
70-79	2	4	1	7
80-89	-	10	1	11
90-99	-	8	-	8
100-149	3	20	24	47
150-199	1	7	3	11
200	2	1	5	8
240	1	4	1	6

The majority of community service sentences (80%) were for less than 50 hours.

TABLE 10: MULTIPLE OFFENSES

NUMBER OF OFFENSES	COURT			
	FAMILY	DISTRICT	CIRCUIT	TOTAL
2	33	67	-	100
3 or more	13	32	-	45
TOTAL	46	99	-	145

145 offenders (11% of all referrals) were sentenced to community service for multiple offenses, none of whom were from Circuit Court. In District Court, most of these cases involved multiple traffic offenses rather than criminal ones. The majority of multiple offenders (69%) were convicted of two offenses, while the remaining 31% had three or more law violations.

For these offenders, only the most serious violation was used in the tables and analyses appearing throughout this report. Therefore, each referral was recorded only once--regardless of the number of offenses he committed.

TABLE 11: PRIOR OFFENSES

PRIOR OFFENSES	FAMILY	DISTRICT	CIRCUIT	TOTAL
None	176	787	59	1022
One or more	102	137	25	264

All courts sentenced more first offenders than recidivists to community service. Family Court had the highest ratio of repeat offenders, with 38% of its referrals having been convicted of prior offenses. Circuit followed with 31%, and District Court had a rate of 18%. The total percentage of repeat offenders for all courts combined was 24%--nearly one-fourth of all community service referrals.

TABLE 12: CASE STATUS OF OFFENDERS

CASE STATUS	COURT			
	FAMILY	DISTRICT	CIRCUIT	TOTAL
Open	136	275	80	491
Closed	140	641	1	782
(No Data)	(2)	(8)	(3)	(13)

At the time of data collection, 39% of the total number of cases were open and 61% were closed. In Family Court nearly equal amounts were open and closed, District Court had 70% closed cases, and Circuit Court had only one closed case.

TABLE 13: AMOUNT OF FINE, FREQUENCIES

AMOUNT OF FINE (\$)	COURT			TOTAL
	FAMILY	DISTRICT	CIRCUIT	
1-49	-	105	1	106
50-99	1	52	-	53
100-199	-	36	1	37
200-299	6	3	9	18
300-399	3	2	5	10
400+	-	4	3	7
TOTAL	10	202	19	231

The fines imposed in addition to a community service sentence were relatively low: 45% were under \$50, and 69% were under \$100.

TABLE 14: LENGTH OF JAIL SENTENCE, FREQUENCIES

JAIL TERM (DAYS)	COURT			TOTAL
	FAMILY	DISTRICT	CIRCUIT	
1-29	7	7	5	19
30-59	1	4	1	6
60	2	4	1	7
120	-	1	-	1
180	-	-	2	2
TOTAL	9	16	9	35

Very few offenders were given jail terms in addition to community service, and those imposed were generally short--over 56% being under 30 days. The longer jail terms usually involved serious offenses and/or repeat offenders.

TABLE 15: FAMILY COURT, DISPOSITIONS

DISPOSITION	FREQUENCY
Community Service only	134
Incarceration and CS	1
Fine and CS	1
Restitution and CS	6
Probation and CS	105
Traffic Points and CS	2
Incarceration, Probation, and CS	9
Restitution, Probation, and CS	17
Restitution, DAGP*, and CS	1
Probation, Driver's License Suspended, and CS	2

(Only those sanctions actually enforced were recorded. Therefore, suspended dispositions are not included in the table.)

*Deferred Acceptance of Guilty Plea. A DAGP is normally not utilized with juvenile offenders. However, this particular case involved a spouse abuse charge against an adult which was adjudicated in Family Court.

TABLE 16: DISTRICT COURT, DISPOSITIONS

DISPOSITION	FREQUENCY
Community Service only	420
Incarceration and CS	8
Fine and CS	141
Restitution and CS	3
Probation and CS	21
Driver's License Suspended and CS	9
Traffic Points and CS	34
DAGP* and CS	164
Incarceration, Fine, and CS	3
Incarceration, Restitution, and CS	1
Incarceration, Probation, and CS	3
Incarceration, DAGP*, and CS	1
Fine, Probation, and CS	5
Fine, Driver's License Suspended, and CS	2
Fine, Traffic Points, and CS	29
Fine, DAGP*, and CS	53
Restitution, Probation, and CS	3
Restitution, DAGP*, and CS	7
Probation, Driver's License Suspended, and CS	2

*Deferred Acceptance of Guilty Plea

TABLE 16 (continued):

DISPOSITION	FREQUENCY
Probation, Traffic Points, and CS	3
Driver's License Suspended, Traffic Points, and CS	10
DAGP*, Driver's License Suspended, and CS	1
DAGP*, Traffic Points, and CS	1

(Only those sanctions actually enforced were recorded. Therefore, suspended sentences are not included in the table.)

*Deferred Acceptance of Guilty Plea

TABLE 17: CIRCUIT COURT, DISPOSITIONS

DISPOSITION	FREQUENCY
Community Service only	-
Probation and CS	8
DAGP* and CS	18
Incarceration, Fine, and CS	1
Incarceration, Restitution, and CS	4
Incarceration, Probation, and CS	7
Incarceration, Driver's License Suspended, and CS	1
Incarceration, DAGP*, and CS	1
Fine, Restitution, and CS	3
Fine, Probation, and CS	4
Fine, DAGP*, and CS	7
Restitution, Probation, and CS	14
Restitution, Driver's License Suspended and CS	1
Restitution, DAGP*, and CS	14
Probation, Driver's License Suspended, and CS	1

(Only those sanctions actually enforced were recorded. Therefore, suspended sentences are not included in the table.)

*Deferred Acceptance of Guilty Plea

TABLE 18: FAMILY COURT, JUDGES' FREQUENCY OF SENTENCING

JUDGE	NUMBER OF CASES
<u>First Circuit</u>	
Yim	78
*Salz	65
Town	37
Lee	12
Gillmor	9
West	9
Rubin	6
*Kanbara	4
<u>Third Circuit</u>	
de Silva	10
**Olson	6
Kanemitsu	4
**Oda	3
Olds	2
<u>Fifth Circuit</u>	
**Nakea	18
Hirano	5
**Masuoka	1

*Temporary assignment to Family Court

**Per diem judge

TABLE 19: DISTRICT COURT, JUDGES' FREQUENCY OF SENTENCING

JUDGE	NUMBER OF CASES
<u>First Circuit</u>	
*Salz	200
Klein	84
Harada	83
Shigemura	80
Richardson	29
**Lewis	27
**Weight	27
**Conklin	24
**Wong	23
**Saruwatari	20
**Namaka	19
***Honda	19
**MacMillan	17
**Abe	17
****Kanbara	17
**Lum	9
****Acoba	8
Chun	6
Kono	4
**Pai	3
**Hirai	3

TABLE 19 (continued):

JUDGE	NUMBER OF CASES
<u>First Circuit (continued)</u>	
**Park	3
**Pyun	2
***Takao	2
***Greig	2
**Fujiyama	1
**Kaito	1
<u>Second Circuit</u>	
Ueoka	4
Komo	1
<u>Third Circuit</u>	
deSilva	97
Ito	53
Kanemitsu	16
**Oda	12
Olds	3
**Olson	3
(No data)	(5)

*Temporary assignment to Family Court

**Per diem judge

***Temporary assignment to Circuit Court

****Temporary assignment to District Court

TABLE 20: CIRCUIT COURT, JUDGES' FREQUENCY OF SENTENCING

JUDGE	NUMBER OF CASES
<u>First Circuit</u>	
*Takao	15
Sodetani	11
Huddy	6
*Honda	5
Hayashi	3
**Kanbara	1
<u>Second Circuit</u>	
Higa	8
Fukuoka	2
<u>Third Circuit</u>	
Kubota	16
Kimura	11
Olds	1
<u>Fifth Circuit</u>	
Hirano	5

*Temporary assignment to Circuit Court

**Designated Family Court judge 7/79

DEMOGRAPHIC PROFILE OF OFFENDERS

TABLE 21: AGE OF OFFENDERS

AGE	FAMILY	COURT		TOTAL
		DISTRICT	CIRCUIT	
13-15	144	12	-	156
16-17	132	34	-	166
18-19	-	185	9	194
20-24	-	292	25	317
25-29	-	138	21	159
30-39	-	142	17	159
40-49	-	47	7	54
50-59	-	20	3	23
60+	-	7	-	7
(no data)	(2)	(47)	(2)	(51)

The offender population was young, the highest concentration of adults being in their early 20s (26%), followed by 18 and 19 year-olds (16%), and those in their late 20s (13%). Juveniles accounted for 25% of all referrals.

The number of offenders increased progressively with age until reaching a peak at the 20-24 year-old group, then progressively declined.

TABLE 22: SEX OF OFFENDERS

SEX	FAMILY	COURT		TOTAL
		DISTRICT	CIRCUIT	
Male	241	639	64	944
Female	37	281	20	338
(No data)	(-)	(4)	(-)	(4)

Of the total number of offenders, 74% were male and 26% were female. This ratio remained fairly constant in the District and Circuit Courts. In Family Court, however, 87% of the offenders were male and 13% were female.

TABLE 23: ETHNICITY OF OFFENDERS

ETHNICITY	FAMILY	COURT		TOTAL
		DISTRICT	CIRCUIT	
Japanese	20	49	9	78
Caucasian	21	241	15	277
Portuguese	3	9	-	12
Hawaiian/Part-Hawaiian	132	212	35	379
Chinese	5	15	1	21
Filipino	20	42	6	68
Puerto Rican	5	9	2	16
Samoan	14	29	1	44
Black	7	22	-	29
Korean	3	7	2	12
Mixed (except Part-Haw'n)/Other	38	70	7	115

The most-represented ethnic category was the "Hawaiian/Part-Hawaiian" group, with 36% of the total referral population. Second in frequency were Caucasians, who comprised 27% of the total. The "Mixed" group followed with 10%, then Japanese and Filipinos with 8% and 7% respectively.

TABLE 24: OCCUPATION OF OFFENDERS

OCCUPATION	COURT		TOTAL
	DISTRICT	CIRCUIT	
Professional, Technical, and kindred workers	45	7	52
Managers/Administrators	11	3	14
Sales workers	19	3	21
Clerical and kindred workers	19	5	24
Craftsmen and kindred workers	51	6	57
Operatives	38	4	42
Laborers	36	9	45
Service workers	90	14	104
Military	30	3	33
Housewives/Homemakers	30	-	30
Student	113	5	118
Unemployed	289	20	309
Retired	6	-	6
Disabled	6	1	7
(No data)	(141)	(4)	(145)

Over one-fourth (27%) of adult offenders were unemployed, making them the most-represented occupational category. The next-largest groups were students and service workers, with 10% and

9% of all adult referrals respectively. These groups were followed in frequency by craftsmen, professional and technical workers, laborers, and operatives--in that order. The least-represented group, except for retired and disabled offenders, were managers and administrators.

Occupational groupings were gleaned from the Occupational Classification System used in the 1970 U. S. Census.

TABLE 25: MARITAL STATUS OF OFFENDERS

MARITAL STATUS	COURT		TOTAL
	DISTRICT	CIRCUIT	
Single	576	31	607
Married (except Separated)	132	29	161
Separated	21	1	22
Divorced	57	8	65
Widowed	3	2	5
(No data)	(135)	(13)	(148)

The majority of adult referrals were single (71%), which is indicative of a young offender population. 19% were married, 8% were divorced, 3% were separated, and 0.5% were widowed.

TABLE 26: RESIDENCE OF OFFENDERS

PLACE OF RESIDENCE	FAMILY	COURT		TOTAL
		DISTRICT	CIRCUIT	
Honolulu	68	359	9	436
Windward Oahu	31	108	11	150
Leeward Oahu	84	117	8	209
Central Oahu	43	58	5	106
Kauai	27	-	5	32
Hilo District (Hilo, Hamakua, Puna)	16	154	21	191
Kona District (Kona, Kohala, Kau)	9	25	6	40
Maui, Mokokai, Lanai	-	7	10	17
Non-resident	-	4	1	5
(No data)	(-)	(92)	(8)	(100)

The greatest number of referrals reside in the Honolulu area (37%), followed by Leeward Oahu (18%), Hilo District (16%), and Windward Oahu (13%).

TABLE 27: FAMILY COURT, AGE OF OFFENDERS

AGE	NUMBER OF OFFENDERS
12	6
13	25
14	42
15	71
16	76
17	56
(No Data)	(2)

The number of Family Court referrals increased progressively with age until 17 years, when the figure fell considerably.

TABLE 28: FAMILY COURT, RELATIONSHIP OF AGE AND SEX

AGE	SEX	
	MALE	FEMALE
12	6	-
13	21	4
14	37	5
15	60	11
16	65	11
17	50	6
(No data)	(2)	(-)

Due to the much larger number of male offenders in Family Court (241, compared to 37 females), females amounted to between 10% and 16% of the total referrals for each age group.

The highest concentration of males fell in the 15 and 16 year-old age groups, with 25% and 27% of the total male population respectively. The highest concentration of females was also in the 15 and 16 year-old groups, each comprising 30% of the total female population.

TABLE 29: FAMILY COURT, RELATIONSHIP OF SEX AND ETHNICITY

ETHNICITY	SEX	
	MALE	FEMALE
Japanese	20	-
Caucasian	15	6
Portuguese	3	-
Hawaiian/Part-Hawaiian	117	15
Chinese	5	-
Filipino	18	2
Puerto Rican	4	1
Samoan	10	4
Black	4	3
Korean	3	-
Mixed (except Part-Hawaiian)/Other	35	4

Every ethnic group consisted of a greater number of males than females.

The most-represented ethnic groups for males were Hawaiian/Part-Hawaiian (50%), Mixed (15%), and Japanese (9%). The most-represented ethnic groups for females were Hawaiian/Part-Hawaiian (43%), Caucasian (17%), Samoan (11%), and Mixed (11%).

TABLE 30: FAMILY COURT, RELATIONSHIP OF SEX AND OFFENSE TYPE

OFFENSE TYPE	SEX	
	MALE	FEMALE
Against Person	43	6
Against Habitation	63	3
Against Property	116	25
Against the Family	1	-
Sex and Related	2	1
Against Public Order	6	-
Against Public Administration	2	-
Against Public Health	5	-
Traffic	3	1
Status Offenses	-	1

For the three major offense categories in Family Court, females accounted for 18% of all property offenses, 12% of offenses against person, and 5% of offenses against habitation.

TABLE 31: FAMILY COURT, OCCUPATION OF FATHER

OCCUPATION	FREQUENCY
Professional, Technical, and kindred workers	14
Managers/Administrators	6
Sales workers	6
Clerical and kindred workers	3
Craftsmen and kindred workers	43
Operatives	17
Laborers	23
Service workers	28
Farmers	1
Military	17
Retired	12
Disabled	3
Unemployed	15
(No data)	(90)

The most-represented occupational categories for fathers of Family Court offenders were craftsmen (23%), service workers (15%), laborers (11%), and military (9%). 8% of the fathers were unemployed (excluding those retired or disabled).

TABLE 32: FAMILY COURT, OCCUPATION OF MOTHER

OCCUPATION	FREQUENCY
Professional, Technical and kindred workers	15
Managers/Administrators	9
Sales workers	5
Clerical and kindred workers	43
Craftsmen and kindred workers	4
Operatives	3
Laborers	3
Service workers	43
Farmers	1
Housewives/Homemakers	73
Military	1
Retired	1
Disabled	-
Unemployed	19
(No data)	(58)

The principal occupation of mothers of Family Court offenders was that of housewife/homemaker (33%), followed by clerical and service workers in equal amounts (20%), professional and technical workers (7%), and managers and administrators (4%). The remaining categories were fairly negligible.

TABLE 33: FAMILY COURT, MARITAL STATUS OF PARENTS

MARITAL STATUS	FREQUENCY
Married (except Separated)	133
Separated	14
Divorced	73
Widowed	24
Single (parents never married)	5
(No data)	(29)

Slightly more than half (53%) of the parents of Family Court referrals were married and not separated. 29% were divorced.

TABLE 34: FAMILY COURT, NUMBER OF CHILDREN IN FAMILY

NUMBER OF CHILDREN IN FAMILY	FREQUENCY
1	20
2	34
3	49
4	53
5	35
6	27
7	15
8	9
9 or more	10
(No data)	(26)

The number of children in the families of Family Court referrals was generally high, more than half (59%) coming from families with four or more children. Family size increased progressively until peaking at 4 children per family, then progressively declined except for the last category--9 or more.

TABLE 35: FAMILY COURT, SCHOOL PERFORMANCE OF OFFENDERS

SCHOOL PERFORMANCE	FREQUENCY
Good	23
Fair	66
Poor	124
Non-attendance	5
(No data)	(60)

The majority (59%) of Family Court offenders performed poorly in School, 30% performed at a fair level, and 11% did well.

(School performance was measured by the students' grades. The criteria for a "good" rating was a preponderance of "A"s and "B"s, "fair" indicates a preponderance of "C"s, and "poor" denotes a preponderance of "D"s and "F"s.)

TABLE 36: DISTRICT COURT, RELATIONSHIP OF AGE AND SEX

AGE	SEX	
	MALE	FEMALE
13-17	35	11
18-19	131	54
20-24	201	90
25-29	99	39
30-39	98	44
40-49	33	14
50-59	13	7
60+	4	3
(No data)	(25)	(19)

The highest concentration of both males and females occurred in the early 20s age group, followed by 18 and 19 year-olds. Of the total male population, 33% were in their early 20s and 21% were 18 or 19. Of all females, 34% were in their early 20s and 21% were 18 or 19. The ratio of females to males in each age group was fairly consistent--between .36 and .54--except for the youngest and oldest age categories.

TABLE 37: DISTRICT COURT, RELATIONSHIP OF SEX AND ETHNICITY

ETHNICITY	SEX	
	MALE	FEMALE
Japanese	33	15
Caucasian	149	92
Portuguese	6	3
Hawaiian/Part-Hawaiian	155	57
Chinese	9	6
Filipino	35	7
Puerto Rican	7	2
Samoan	25	4
Black	14	8
Korean	6	1
Mixed (except Part-Hawaiian)/Other	56	19

Every ethnic grouping consisted of a larger number of males than females.

The most-represented ethnic groups for males were Hawaiian/Part-Hawaiian (31%), Caucasian (30%), and Mixed (11%). The most-represented ethnic groups for females were Caucasian (43%), Hawaiian/Part-Hawaiian (27%), and Mixed (9%).

TABLE 38: DISTRICT COURT, RELATIONSHIP OF SEX AND OCCUPATION

OCCUPATION	SEX	
	MALE	FEMALE
Professional, Technical, and kindred workers	37	8
Managers/Administrators	6	3
Sales workers	11	7
Clerical and kindred workers	10	9
Craftsmen and kindred workers	51	-
Operatives	36	2
Laborers	38	-
Service workers	72	18
Military	29	1
Housewives/Homemakers	-	30
Students	82	31
Unemployed	172	117
Retired	5	1
Disabled	5	1
Other	1	1
(No data)	(84)	(52)

RECOMMENDATIONS

Program Centralization

This writer recommends statewide centralization of the community service sentencing function. Presently, such centralization exists only within the First Judicial Circuit encompassing the island of Oahu. The Second, Third and Fifth Judicial Circuits, making up the remainder of the judicial system, is a bifurcated program--with the Judiciary responsible for juvenile offenders and the Intake Service Center (an office of the Executive Branch) assuming responsibility for adult offenders. Placing the community service function in one office would lead to better coordination, minimize duplication of efforts among the various Courts, and eliminate the confusion participating agencies have faced in having to work with different courts and agencies along with their respective probation/counseling staff.

Centralization is also deemed important by several judges. In the preceding statewide study on community service sentencing, a District Court judge from the First Circuit made the following observation:

(The CSSP) needs more cohesion...There is no overall coordination of the CS (Community Service) effort. Each counselor is left to ascertain the appropriate type of CS. This has tended toward disparate treatment among offenders of the same type.

Other judges interviewed in the earlier study indicated that "we need trained personnel to handle the program" and that "there should be a system for referral, follow-up, and keeping

judges informed." Centralization on a statewide level would provide for more consistency in operating procedures and systematic reporting/feedback to the appropriate referral source.

Offender Selection Criteria

Although not a panacea for all offenders, community service sentencing--as a true sentencing alternative--should be made available to the widest possible range of offenders. There is currently a trend in this direction as a larger number of community service sentences are being given and for a wider range of offenses in comparison with 1978-79.

The selection criteria currently utilized by the Community Service Sentencing Program in the First Circuit was originally presented to judges in 1978 as a recommended guideline. During the preceding study on community service sentencing, judges were also polled as to their preference in keeping the guideline as an operational guide or including it in the penal code. The majority of judges favored maintaining the selection criteria as a guideline so as not to place statutory constraints on their discretionary sentencing authority.

However, in June 1980, House Bill 1918--relating to "Imprisonment without Possibility of Supervision or Probation when Convicted of Class A Felony"--was enacted into law, thereby removing from the court's discretion this class of offenders from community service sentencing consideration. The new law did not have a significant impact on the community service sentencing practice, as no Class A felony offender had been sentenced to perform community service during the two previous fiscal years.

The present selection guideline was proposed at a time when the practice of community service sentencing was an untested area. Sentencing trends seem to support a judicial move toward making community service available to as wide a range of offenders as is practical without jeopardizing the program with referrals of dysfunctional/inappropriate individuals for whom other traditional sentences are more appropriate.

To promote this trend toward expansion, this writer recommends that the selection guidelines be amended to remove the current suggested restrictions relating to the following:

- 1) that the defendant have no prior history of delinquency, criminal activity or violation;
- 2) that the defendant's delinquent or criminal conduct was the result of circumstances unlikely to recur (situational or accidental);
- 3) that the defendant did not contemplate his criminal conduct would cause or threaten serious harm; and
- 4) that the character and attitudes of the defendant (will make him) unlikely to commit another crime.

Offenders failing to meet these criteria have in the past received CS, and this practice should be continued if a judge deems CS more beneficial to the offender than a traditional sentence.

Criteria for Imposition of Sentence

Regarding guidelines for the number of hours sentenced based on particular classes of offenses, this writer finds the current recommended ceiling to be sound. This opinion is based on the close approximations of average sentences in each offense group revealed in the study, as well as their proximity to the

recommended ceilings. It should be noted that community service is frequently imposed in conjunction with other traditional sentences. An unrealistically high ceiling might prove counter-productive to the intent of the sentence and increase the likelihood of offender failure. In this regard, the imposition of the maximum recommended ceiling for each offense in the case of multiple offenders should also take into consideration the impact of other court requirements on the offender's ability to comply.

The current recommended sentencing criteria is as follows:

The exercise of discretion by different judges in the imposition of sentences to community service cannot be expected to yield precisely uniform sentences. Distinctions in the number and variety of circumstances surrounding a sentence to community service may be drawn with each defendant, resulting in potential anarchy in sentencing. The following guidelines, while not controlling the discretion of the Court, may be accorded weight in setting upper limits for each class of offense:

- 1) Class B Felony 200 hours
- 2) Class C Felony 100 hours
- 3) Misdemeanor 50 hours
- 4) Petty Misdemeanor 25 hours
- 5) Violation 10 hours

This writer recommends that a similar sentencing criteria be applied to juvenile offenders. Such a criteria has already been developed but has not been formally added to the current guideline.

The guideline for juvenile offenders supported by this writer is as follows:

A separate criteria for juvenile offenders should be established to account for varying levels of maturity and self-discipline, absence of work experience, generally shorter time frame under court jurisdiction, and the limited times juveniles are available for work, i.e., either after school or on weekends.

- 1) Class B Felony 100 hours
- 2) Class C Felony 50 hours
- 3) Misdemeanor 30 hours
- 4) Petty Misdemeanor 20 hours
- 5) Violation 10 hours

Liability/Protection

The issue of tort liability of participating agencies and court personnel, as well as medical protection for the offender, are areas for which this writer wishes to defer making any firm recommendation due to the necessity of determining the full legal implications of any proposed change. However, the two areas should continue to be explored.

Participating community agencies who agree to provide a work station and supervision of convicted offenders are currently not provided with any liability/casualty insurance. This writer has determined that such protection should be provided--particularly in view of the fact that the private participating agencies are non-profit and in all probability could not withstand the costly litigation involved in a tort liability claim. The two options available are to have the state contract with a private insurance carrier or to include the private non-profit organization under the existing State Tort Liability Act which encompasses other State and local government agencies.

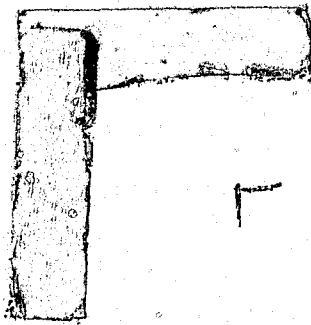
The first option had previously been explored with none of the insurance carriers in the state interested in underwriting such a policy. However, since contact with the insurance companies were made at a time when community service sentencing was a new practice, exploration should again be made. Any decision to include private agencies under the State Tort Liability Act would require the drafting of enabling legislation. In this regard, the Judiciary should take the lead.

Medical protection is currently not available for the offender while performing community service work under a court sentence. One study entitled "National Assessment of Adult Restitution Programs--Court Ordered Community Service in Criminal Law" was critical of Hawaii's statute which provides that the offender shall not be considered an employee for any purpose--thereby denying the offender workmen's compensation coverage for service-related injuries. However, the absence of medical coverage is not an acute problem in the sentencing program, since approximately 97% of the State's population is covered by some form of medical insurance. (The unusually high percentage of residents having medical coverage was recently cited as justification in legislation calling for the elimination of county ambulance service.) It is estimated that approximately 12% of the offenders referred for CS have no medical coverage. Although administrative safeguards can be taken to place such an offender in a work setting which minimizes the risk of injury, there can be no assurance that accidents will not occur.

This writer suggests that an amendment be explored in the workmen's compensation law providing medical protection for offenders who have none. Furthermore, limiting this coverage to the same extent as provided for by existing medical insurance policies would provide equal protection among offenders and place a portion of the responsibility for payment back to the offender.

IX. APPENDIX

APPENDIX 1 - Referral Procedures



7

APPENDIX 1 - Referral Procedures

5. INFORMATION TO BE SHARED WITH THE RECEIVING AGENCY should include the following:
 - a. Age, sex, geographic area in which the client lives, offense(s) for which the client was adjudicated, court status (probation, continued), number of hours to be performed, any court imposed time deadline for completion, and availability of the client.
 - b. The name of the client should be divulged after the agency has agreed to interview and/or place the client.
 - c. Offenses committed against a person i.e., assault, robbery, terroristic threatening, should be examined more closely. Information concerning the circumstances of the offense should be obtained from the probation officer and shared with the receiving agency, to enable them to properly assess their capability in providing a suitable work placement and adequate supervision of the client.
 - d. The basic premise for sharing as much information with the agency as is necessary, allows for better screening and assessment of the clients by the agency. The intent is to exercise controls where needed and minimize the risks involved to both the agency and the court.
 - e. Generally, with the exception of park maintenance type work, the majority of agencies prefer that the client call for an appointment interview. This practice has the advantage of providing a test for the agency on how responsible the client is in following through.
6. ONCE AN AGENCY HAS AGREED TO ACCEPT OR INTERVIEW THE CLIENT, observe the following procedures:
 - a. Remind the agency contact person to call you with the outcome on those clients who are scheduled for interviews.
 - b. Contact the client and inform him/her of the arrangements.
 - c. For a direct placement, inform the client of the starting date and time, the name of the supervisor (s)he is to report to, type of work to be performed and any clothing/equipment, i.e., shoes, pants, gloves, needed to perform the work.

6. d. For an interview appointment, give the client the name and phone number of the person to contact along with information on the type of work available at the agency. Remind the client that the agency is under no obligation to accept him/her for work placement. (S)he must be able to present a positive impression at the interview and show a desire to work.
7. UPON NOTICE OF ACCEPTANCE of the client by the agency, for those clients scheduled for interviews, the following information should be obtained from the agency:
 - a. Starting date, duties to be performed, who the client is to report to and the work schedule (days and times). The information is needed to complete the Terms and Conditions/Work Verification (yellow) form.
 - b. Give the information to the VIPS secretary along with the name of the agency, and the completed Disclosure of Confidential Information (green) form, if you have it.
 - c. The VIPS office will be responsible for completing and forwarding all forms to the appropriate parties.
8. YOU WILL BE RESPONSIBLE FOR MONITORING your assigned client once (s)he has started work.
 - a. Monitoring should be on a weekly basis with the agency at least for the first month following placement. Contacts thereafter should be made once per month if the client's work adjustment has been satisfactory. More frequent contact and follow-up will be necessary for those clients who have difficulty complying with the court order.
 - b. Occasional contact with the client is advisable to obtain feedback on job satisfaction or problems at the work site.
 - c. Inform the probation officer of any problems you may encounter with the client, as well as, any incidents involving the client at the agency work site.
 - d. Record all contacts on the Confirmation of Appointment (blue) form. Be sure to also include all contacts where messages are left. The log of recorded contacts serves three functions: 1) in the event you are unable to follow through with a case to completion, the log will provide an on-going account necessary in transferring the case to a new worker; 2) should the client fail to complete his/her required community service hours, an account of what transpired with the

8. d. case would be necessary for the judge to properly render a decision; 3) recording all contacts as you make them should help you to maintain an accurate status of each case, since there will generally be more than one case assigned to you.
9. IN SUMMARY, YOUR RESPONSIBILITIES include the following:
 - a. To inform the client of his/her responsibilities in completing the work assignment;
 - b. Matching/assigning the client to a suitable work placement site;
 - c. Monitoring the client for compliance;
 - d. Following up with both the client and agency in instances of non-compliance to resolve any problems and seek a quick resumption of the required hours of work;
 - e. Keep the court officer informed of the client's progress and bring any problems/concerns to the attention of the officer;
 - f. You are not responsible for the client's failure to follow through or his/her conduct while at the agency. The client will be held accountable for his/her own actions.
10. REMINDER THAT IF YOU ARE UNABLE TO COMPLETE ANY PART OF YOUR ASSIGNMENT, please inform the VIPS office immediately. The program bears the full responsibility of assuring that the client fulfill his/her community service work condition before the court deadline date. If you encounter any problems or difficulties, please contact the VIPS administrator.

The Judiciary, State of Hawaii
Community Service Sentencing Program

PROCEDURES FOR CSSP INTERVIEW/PLACEMENT OF JUVENILES

1. The number of case assignments to a CSSP aide will be determined by geographic location and the time availability of the volunteer.
2. UPON RECEIPT OF THE REFERRAL, contact parent(s) and arrange an appointment interview.
 - a. Inquire as to whether parent(s) are available to come for interview. If not, be sure that child is informed of appointment date and time.
 - b. In some instances, the parent(s) have already completed the necessary forms at the time of referral. Please check your referral form and attachments to determine what needs to be obtained. The attendance of a parent is not mandatory.
3. WHEN CONDUCTING THE PLACEMENT INTERVIEW, observe the following procedures:
 - a. Be sure that the client is reminded of the total number of hours (s)he has been ordered to perform.
 - b. The time deadline for completion of the community service work is not based on the return court date, but on the work schedule set up by the receiving agency. The return court date is for the completion of all of the conditions of the court order including any investigative report (social study) by the probation officer.
 - c. Review the information contained on the reverse side of the referral form with the client and parent(s).
 - d. Provide a listing of community work placement sites available within the client's geographic area. The client should be assisted in selecting a work placement site on the basis of the client's interests and the work activities available at the agencies.
 - e. Have parent complete the Emergency Medical Consent form. One copy is sufficient for the receiving agency.
 - f. Have both parent and child sign the Consent to Disclosure of Confidential Information form. Two copies should be signed. (One for the receiving agency and the other to be kept on file in the event of loss or transfer of the client to another work placement site.) The third should be given to the parent/child.

- g. If a parent is not present and both consent forms have not been completed, have the client bring the forms home with a self-addressed envelope so that the forms are returned directly to the VIPS office.
- 4. CONTACT SHOULD THEN BE MADE WITH THE AGENCY of the client's preference. There may be instances where the judge and/or probation officer may have a recommended placement site for the client. This should be indicated to the client at the time of the appointment interview.
 - a. A reminder that the majority of agencies participating, have set limits on the number of clients they are willing to accept on their premises at one time. If you are not sure, please check with the VIPS office.
 - b. Since confidential information will be shared with the agency, follow-up should be made after the placement interview.
- 5. INFORMATION TO BE SHARED WITH THE RECEIVING AGENCY should include the following:
 - a. Age, sex, geographic area in which the client lives, offense(s) for which the client was adjudicated, court status (probation, continued), number of hours to be performed, time deadline, and availability of the client.
 - b. The name of the client should be divulged after the agency has agreed to interview and/or place the client.
 - c. Offenses committed against a person i.e., assault, robbery, terroristic threatening, should be examined more closely. Information concerning the circumstances of the offense should be obtained from the probation officer and shared with the receiving agency, to enable them to properly assess their capability in providing a suitable work placement and adequate supervision of the client.
 - d. The basic premise for sharing as much information with the agency as is necessary, allows for better screening and assessment of the clients by the agency. The intent is to exercise controls where needed and minimize the risks involved to both the agency and the court.
 - e. Generally, with the exception of park maintenance type work, the majority of agencies prefer that the client call for an appointment interview. This practice has the advantage of providing a test for the agency on how responsible the client is in following through.

- 6. ONCE AN AGENCY HAS AGREED TO ACCEPT OR INTERVIEW THE CLIENT, observe the following procedures:
 - a. Remind the agency contact person to call you with the outcome on those clients who are scheduled for interviews.
 - b. Contact the client and/or parent and inform them of the arrangements.
 - c. For a direct placement, inform the client of the starting date and time, the name of the supervisor. (s)he is to report to, type of work to be performed and any clothing/equipment i.e., shoes, pants, gloves, needed to perform the work.
 - d. For an interview appointment, give the client the name and phone number of the person to contact along with information on the type of work available at the agency. Remind the client that the agency is under no obligation to accept him/her for work placement. (S)he must be able to present a positive impression at the interview and show a desire to work.
- 7. UPON NOTICE OF ACCEPTANCE of the client by the agency, for those clients scheduled for interviews, the following information should be obtained from the agency:
 - a. Starting date, duties to be performed, who the client is to report to and the work schedule (days and times). The information is needed to complete the Terms and Conditions/Work Verification (yellow) form.
 - b. The completed Terms and Conditions/Work Verification form and if you have the Emergency Medical Consent and Disclosure of Confidential Information, will be given to the CSSP coordinator for review.
 - c. After the forms have been reviewed, the VIPS secretary will type out the information for the Terms and Conditions/Work Verification form making one original, two carbon copies, and two zerox copies. Distribution of the forms are as follows: the original and one carbon copy go to the agency, one carbon copy goes to the client, one zerox copy will be given to the Probation Officer, and one zerox copy will be kept in the office file.
 - d. The VIPS office will be responsible for completing and forwarding all forms to the appropriate parties.

8. YOU WILL BE RESPONSIBLE FOR MONITORING your assigned client once (s)he has started work.
 - a. Monitoring should be on a minimum of once per week with the agency.
 - b. Occasional contact with the client is advisable to obtain feedback on job satisfaction or problems at the work site.
 - c. Record all contacts on the Confirmation of Appointment (blue) form. Be sure to also include all contacts where messages are left. The log of recorded contacts serves three functions: 1) in the event you are unable to follow through with a case to completion, the log will provide an on-going account necessary in transferring the case to a new worker; 2) should the client fail to complete his/her required community service hours, an account of what transpired with the case would be necessary for the judge to properly render a decision; 3) recording all contacts as you make them should help you to maintain an accurate status of each case, since there will generally be more than one case assigned to you.
9. WHEN THE CLIENTS COMPLETE THEIR COMMUNITY SERVICE, turn in all forms (confirmation, referral, copies of consent and medical forms) to the CSSP coordinator even though the Terms and Conditions/Work Verification form has not been returned by the agency.
 - a. If the work verification form has not been returned after a week, the coordinator will notify the assigned staff to contact and remind the agency to send back the work verification form.
 - b. When the work verification form is returned, a zerox copy will be made and attached with all the forms (confirmation, referral, etc.) and filed for our records. The original copy will be returned to the assigned CSSP staff who will deliver it to the P. O.'s box.
10. IN SUMMARY, YOUR RESPONSIBILITIES include the following:
 - a. To inform the client of his/her responsibilities in completing the work assignment;
 - b. Matching/assigning the client to a suitable work placement site;

10. c. Monitoring the client for compliance;
 - d. Following up with both the client and agency in instances of non-compliance to resolve any problems and seek a quick resumption of the required hours of work;
 - e. Keep the court officer informed of the client's progress and bring any problems/concerns to the attention of the officer;
 - f. You are not responsible for the client's failure to follow through or his/her conduct while at the agency. The client will be held accountable for his/her own actions.
11. REMINDER THAT IF YOU ARE UNABLE TO COMPLETE ANY PART OF YOUR ASSIGNMENT, please inform the VIPS office immediately. The program bears the full responsibility of assuring that the client fulfill his/her community service work condition before the return court date. If you encounter any problems or difficulties, please contact the VIPS administrator.

CONTINUED

1 OF 2

APPENDIX 2 - Program Forms

The Judiciary, State of Hawaii
Volunteers In Public Service To The Courts
Community Service Sentencing Program

ADULT CLIENT REFERRAL FORM

Court Officer: _____ Local: _____

Date of Request: _____

PART I:

- 1) Name _____ Case No. _____
2) Address _____ Phone _____
Street City Zip
3) Race _____ Sex _____ DOB _____ Age _____
4) Employment: Unemp. _____ Ret. _____ F/T _____ P/T _____
5) Occupation _____ Bus. Phone _____

PART II:

- 6) Offense(s) Referred for - list specific offense(s) by category:
Property Offense: _____
Person Offense: _____
Drug Offense: _____
Other: _____
Prior Offense(s): _____
7) Court Status: Prob. _____ DAGP _____ DANC _____
S.Sent. _____ Other _____ Per. of Sent. _____
8) Court Officer's assessment of client's attitude/motivation for community service:
_____ Positive _____ Neutral _____ Negative _____ Unknown
No. of prior comm. serv. sent. _____ No. completed _____
9) Indicate any history of mental health services; if client is prone to assaultive behavior; is verbally/physically aggressive: _____
10) Total hours to be performed: _____
11) Deadline for completion of public service work: _____
12) Recommended Work Activity (specify): _____

PART III:

FOR VIPS OFFICE USE ONLY:

- 13) Does client have any special skills or interests? _____
- 14) Any limitations/barriers that would hinder work placement?
- a) Physical handicap/health problems: _____
- b) Time constraints/availability: _____
- c) Transportation: _____
- 15) Assessment of client's attitude/motivation toward performing public service work. _____
- 16) Has the client been apprised of the following:

Check List

- a) Absence of medical coverage for accidental injuries sustained at the work site; _____
- b) Does client have some medical plan or coverage? Yes _____ No _____
- c) Assurance of confidentiality of client's status at the work placement site based on a need to know; _____
- d) Reporting procedures to the work site and the time frame for completion; _____
- e) Transportation and meals are to be an assumed out-of-pocket cost to the client; _____
- f) Monitoring of work site and feedback from client by the VIPS office with such information to be reported back to the court officer; _____
- g) Copy of consent form and work verification form to be forwarded to client; _____
- h) Need for special clothing/equipment, i.e., gloves, shoes, rubber gloves for cleaning restrooms when assigned to grounds maintenance, custodial type activities. _____

17) Placement Site: _____ Starting On: _____

The Judiciary, State of Hawaii
Volunteers In Public Service To The Court's
Community Service Sentencing Program

CLIENT REFERRAL FORM FOR MINORS

Court Officer: _____ Local: _____

Date of Request: _____

PART I:

- 1) Name _____ Case No. _____
- 2) Address _____ Zip _____ Phone _____
- 3) Race _____ Sex _____ DOB _____ Age _____
Class/ _____
- 4) Sch./Emp. _____ Wk. Schedule _____
- 5) Name of parent(s)/guardian minor resides with: _____

PART II: REASON FOR COURT REFERRAL

- 6) Offense(s) Referred for - list specific offense(s) by category:
- Property Offense: _____
- Person Offense: _____
- Drug Offense: _____
- Status/Other Offense(s): _____
- Prior Offense(s): _____
- 7) Court Status: Prob. _____ Protective Supervision _____
Cont. for Disp. _____ Period _____ Court Date _____
- 8) Court Officer's assessment of client's attitude/motivation for community service:
- _____ Positive _____ Neutral _____ Negative _____ Unknown
- No. of prior comm. serv.: Informal _____ Court Ordered _____
- 9) Indicate any history of mental health services; if client is prone to assaultive behavior; is verbally/physically aggressive: _____
- 10) Total hours to be performed: _____
- 11) Deadline for completion of public service work: _____
- 12) Recommended Work Activity (specify): _____

PART III:

FOR VIPS OFFICE USE ONLY:

- 13) Does client have any special skills or interests? _____
- 14) Any limitations/barriers that would hinder work placement?
a) Physical handicap/health problems: _____
b) Time constraints/availability: _____
c) Transportation: _____
- 15) Assessment of client's attitude/motivation toward performing public service work. _____
- 16) Has the client been apprised of the following:
- | | Check List |
|--|------------|
| a) Absence of medical coverage for accidental injuries sustained at the work site; | _____ |
| b) Does client have some medical plan or coverage? Yes _____ No _____ | _____ |
| c) Assurance of confidentiality of client's status at the work placement site based on a need to know; | _____ |
| d) Reporting procedures to the work site and the time frame for completion; | _____ |
| e) Transportation and meals are to be an assumed out-of-pocket cost to the client; | _____ |
| f) Monitoring of work site and feedback from client by the VIPS office with such information to be reported back to the court officer; | _____ |
| g) Copy of consent form and work verification form to be forwarded to client; | _____ |
| h) Need for special clothing/equipment, i.e., gloves, shoes, rubber gloves for cleaning restrooms when assigned to grounds maintenance, custodial type activities. | _____ |
- 17) Placement Site: _____ Starting On: _____

The Judiciary, State of Hawaii
Family Court of the _____ Circuit
Community Service Sentencing Program

EMERGENCY MEDICAL CONSENT FORM

Parent/Guardian: _____
Address: _____ Phone: _____
Person to contact in case of emergency: _____
Home Phone: _____ Bus. Phone: _____
Family Physician/Clinic: _____
Address: _____
Phone: _____
Name of Medical Plan, if any: _____

CONSENT STATEMENT

I hereby give my consent to _____
Agency/Organization
to take _____, my child/charge for emergency
Minor's Name
medical care in the event I or an authorized representative cannot
be reached. I further understand, that I assume full
responsibility for the cost of medical care which may arise from
any accidental injury/(ies) sustained by my child/charge while
performing community service work. My responsibility for such
medical care does not extend to injuries arising out of the gross
negligence, willful negligence or the intentional acts of the
community service supervisor(s).

I have read and/or have had all of the above read to me, and
I understand the terms and conditions of this statement.

Parent/Legal Guardian (Signature)

Expiration Date

Date

The Judiciary, State of Hawaii
Family Court of the _____ Circuit
Community Service Sentencing Program

AUTHORIZATION TO TREAT A MINOR FORM

I (We), the undersigned parent, parents or legal guardian of

_____ authorize the following medical
center(s)/clinic(s): _____

Hospital/Clinic

or licensed physician, Dr. _____ to treat my/our
child/charge with any X-ray examination, anesthetic, medical or surgical diagnosis
rendered under the general or special supervision of any member of the medical
staff of the named hospital/clinic or office of the named physician who are
licensed to practice in the State of Hawaii.

It is understood that this authorization is given in advance of any specific
diagnosis, treatment or hospital care being required but is given to provide
authority and power to render care when the physician in the exercise of his best
judgement may deem advisable. It is understood that effort shall be made to
contact the undersigned prior to rendering treatment to the patient, but that
treatment will not be withheld if the undersigned cannot be reached.

Signature of Witness

Parent/Legal Guardian (Signature)

Date

Phone

Date

Phone

List any restrictions to your authorization to treat: _____

Date minor received last tetanus/diphtheria booster: _____

List any allergies to drug(s) or food(s) minor may have: _____

Any special medication(s) or other pertinent information on minor: _____

This consent shall remain effective until: _____

Expiration Date

The Judiciary, State of Hawaii
Court of the _____ Circuit
Community Service Sentencing Program

CONSENT TO THE DISCLOSURE OF CONFIDENTIAL INFORMATION

I, _____, HEREBY AUTHORIZE the
Community Service Sentencing Program, a representative of The Judiciary,
to obtain from the above entitled court information concerning my court
ordered sentence to perform community service work.

I FURTHER RELEASE _____, the court and
_____ agency/organization
its representative, their agents, successors or assigns from any
responsibility in connection with the disclosure of information related
to my sentence of community service work.

I UNDERSTAND:

1. That such information will be shared with (an) agency/
organization(s) where community service work placement
arrangements are being considered for the purpose of
screening and placement;
2. That information concerning my work performance will be
released by the agency/organization to an authorized
representative of the Community Service Sentencing Program;
3. That the information gathered to monitor my compliance to
the community service order may be used to initiate court
action in my behalf or against me - which may include a
return to court for further sentencing;
4. That this consent to the disclosure of confidential
information will comply with Federal and State statutory
requirements for the protection of such reports and the
conditions for the divulgence of such information;
5. That I can withdraw this consent upon my written request,
but any written withdrawal of consent will be effective the
date of receipt of the request by an authorized representative
of the Community Service Sentencing Program.

I HAVE READ or had read to me all of the above, and I understand
the terms and conditions under which I give my consent.

WITNESSED BY:

(Signature & Title)

(Date/Phone)

(Client's signature)

(Date/Phone)

The Judiciary, State of Hawaii
Family Court of the _____ Circuit
Community Service Sentencing Program

CONSENT TO THE DISCLOSURE OF CONFIDENTIAL INFORMATION

I, _____ HEREBY AUTHORIZE THE
Community Service Sentencing Program (CSSP), a representative of The Judiciary,
to obtain from the above-entitled court information concerning my court
ordered sentence to perform community service work.

I FURTHER RELEASE A COMMUNITY SERVICE ORGANIZATION AS DESIGNATED BY THE CSSP,
the court and its representative, their agents, successors or assigns from
any responsibility in connection with the disclosure of information related
to my sentence of community service work.

I UNDERSTAND:

1. That such information will be shared with (an) agency/
organization(s) where community service work placement
arrangements are being considered for the purpose of
screening and placement;
2. That information concerning my work performance will be released
by the agency/organization to an authorized representative of the
Community Service Sentencing Program;
3. That the information gathered to monitor my compliance to the
community service order may be used to initiate court action in
my behalf or against me - which may include a return to court for
further sentencing;
4. That this consent to the disclosure of confidential information
will comply with Federal and State statutory requirements for the
protection of such reports and the conditions for the divulgence
of such information;
5. That I can withdraw this consent upon my written request, but
any written withdrawal of consent will be effective the date of
receipt of the request by an authorized representative of the
Community Service Sentencing Program.

I HAVE READ or had read to me all of the above, and I understand the terms
and conditions under which I give my consent.

WITNESSED BY:

(Signature & Title)

(Date/Phone)

Parent or Guardian's Signature

(Client's signature)

(Date/Phone)

APPENDIX 3 - Volunteer Client Monitor
Information

VOLUNTEER CLIENT MONITOR

I. INTRODUCTION

The Volunteer Client Monitor operates under the supervision of the VIPS Coordinator. The Client Monitor assists the probation officers and court counselors in monitoring clients who are under the purview of the court and ordered to receive mental health treatment. Contacts are made with the various clinics/therapists' offices by phone. There is no direct client contact. Any decision to initiate court action in behalf of, or against the client is the responsibility of the court officer assigned to the client's case.

II. MAJOR DUTIES AND RESPONSIBILITIES

1. Receive referrals of court clients to be monitored from the VIPS Coordinator. The monitoring will commence following the receipt of the referral.
2. Contact the various clinics/private therapists at least once each calendar month to request information concerning the dates of the client's appointments and whether the client reported. Record the information on the Confirmation of Appointment form.
3. In instances where the client has failed to report, record the circumstances for non-compliance on the Confirmation form and immediately contact the court liaison to relay the information. (See Operational Procedures.)
4. Turn in the completed Confirmation of Appointment forms on each client to the VIPS Coordinator by the reporting period. (See Reporting Procedures.)
5. Report any problems/concerns encountered and any recommended solutions to the VIPS Coordinator.

III. MINIMUM QUALIFICATION REQUIREMENTS

Experience and Training: (1) attendance at three orientation classes conducted by the VIPS Office; and (2) no experience necessary.

Knowledge of: (1) operational procedures for the Mental Health Monitoring Program; (2) reporting procedures for Client Monitors; and (3) telephone courtesy.

III. MINIMUM QUALIFICATION REQUIREMENTS (cont.)

Ability to: (1) Receive written and/or verbal instructions for follow-up; (2) converse clearly and exercise proper courtesy in dealing with court staff, other agencies and individuals; (3) relate to other individuals by phone or in person in receiving and conveying accurate information; and (4) record and maintain such records as are necessary.

Personal Qualities: Maturity, tact, good judgement, stability, firmness, and a sense of responsibility.

IV. AVAILABILITY REQUIREMENTS

The Volunteer Client Monitor should be available at least 4 hours per month. Since contacts with the clinics/private therapists will be primarily by phone, the position can be filled by a volunteer with access to a phone during the normal work hours. Contacts are usually begun with the clinics/private therapists at the end of each month and/or during the first week of the following month.

In addition, the Volunteer Client Monitor should be available to meet with the VIPS Coordinator and court staff for periodic consultation and feedback.

V. VOLUNTEER BENEFITS

Volunteers are reimbursed for car mileage and/or bus transportation. ~~They are covered~~ under Workmen's Compensation for medical and reasonable hospital expenses for any injuries received while in the performance of their duties. Volunteers will also receive reimbursement for postage when mailing report forms to the VIPS office.

APPENDIX 4 - Hawaii State Attorney General's
Opinion Regarding Liability



ORGE R. ARIYOSHI
GOVERNOR



RONALD Y. AMEMIYA
ATTORNEY GENERAL

LARRY L. ZENKEM
ASSISTANT ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
STATE CAPITOL
HONOLULU, HAWAII 96813

August 16, 1978

MEMORANDUM

To: Mr. Lester E. Cingcade
Administrative Director of the Court

Attn: Earl J. Yonehara
Volunteer Services Administrator

From: Corinne K. A. Watanabe
Deputy Attorney General

Subject: Act 96, SLH 1978 (Community Service as
Sentence Alternative)

This is in response to your request for this office's comments relative to various questions that have arisen regarding the implementation of Act 96, SLH 1978. The new law amends Section 706-605, H.R.S. by authorizing judges to sentence convicted defendants:

To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or under other appropriate supervision, or to perform such services and to probation, as the court may direct, . . . Section 706-605(1)(f), H.R.S.

Because the new law also provides specifically that convicted persons who perform such community services pursuant to a court-imposed sentence shall not be deemed to be an employee for any purpose, you were concerned about the potential liability of the courts and program participants for the tortious acts of the sentenced offenders. We will address each of your concerns separately.

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1. To what extent would the courts be liable for any injury sustained by an offender as a result of a sentence to perform community service as well as for any tortious act which might be committed by the offender against a third party?

Inasmuch as the language of the statute specifically provides that the convicted offender shall not be considered an employee of the State, any injuries sustained by the offender in the performance of his sentence would not be compensable under the workers' compensation laws. Further if the convicted person is not considered an employee within the meaning of the State Tort Liability Act, Chapter 662, H.R.S., the State would not be liable to third parties who are injured as a result of negligence by the convicted person in performing his sentence of community service.

Whether the offender or third parties would have recourse against the courts for injuries suffered, would thus seem to rest on general principles of tort law or other statutes.

Under general tort law, it would seem clear, at the outset, that the judge who orders a community service sentence could not personally be held civilly liable to the offender or third parties, as long as the judge had proper jurisdiction over the case. It is the general rule that:

"Where a judge has jurisdiction he is not civilly liable for acts done in the exercise of his judicial function.

A judicial officer cannot be called to account in a civil action for his determination and acts in his judicial capacity and within his jurisdiction, however erroneous. For a mere error of judgment in the execution of his office, no action can be maintained against a judge of any court, and he should not be mulcted in costs or other forms of damages because of judgments rendered by him. This

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principle may be said to be as old as the beginning of the English common law. It rests upon considerations of public policy, its purpose being to preserve the integrity and independence of the judiciary, and to insure that judges will act on their own free, unbiased convictions, uninfluenced by any apprehensions of consequences. 46 Am Jur 2d Judges §72.

The Hawaii Supreme Court has long recognized that judges are absolutely immune from civil liability. See Gomez v. Whitney, 21 H. 539, 546-547 (1913), Leong Yau v. Carden, 23 H. 362, 366 (1916), State v. Taylor, 49 H. 624, 631 (1967). (See also Stump v. Sparkman, 46 U.S. L.W. 4253 (1978), where, the United States Supreme Court held that a judge who granted a mother's petition to have her 15 year old daughter sterilized, was entitled to judicial immunity from the daughter's lawsuit for damages, even if the action he took was in error, was done maliciously, or was in excess of his authority; a judge would be subject to liability only when he has acted in the "clear absence of all jurisdiction.") Therefore, it seems clear that the sentencing judge cannot be liable in civil damages to an offender who is injured while performing a community sentence or to third parties injured by the convicted offender while performing a sentence.

The potential liability of the State of Hawaii, court employees or volunteers present a somewhat different situation.

Under Chapter 662, H.R.S., the State of Hawaii has waived its common law immunity for liability for the torts of its employees and is liable in the same manner and to the same extent as a private individual under like

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circumstances. Therefore in certain instances,^{1/} the State, as well as its officers or employees, could be held liable to an injured offender or third party if the latter's injury or death was caused by the negligent or wrongful act or omission of any employee of the State while acting within the scope of his office or employment. Negligence has been defined as:

^{1/} There are six exceptions specified in § 662-15, H.R.S., to which the State Tort Liability Act (Chapter 662, H.R.S.) does not apply. The first exception relates to "(a)ny claim based upon an act or omission of an employee of the State, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state officer or employee, whether or not the discretion has been abused." It is arguable that a court employee carrying out a sentence imposed by the judge pursuant to § 706-605, H.R.S. could be considered executing a statute or performing a discretionary function, so as to exempt the State from liability.

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The failure to exercise the degree of care demanded by the circumstances, or as the want of that care which the law prescribes under the particular circumstances existing at the time of the act or omission which is involved. Otherwise stated, negligence consists in the failure to exercise the care which an ordinarily prudent person would use under the circumstances in the discharge of duty then resting upon him to avoid inflicting injury on or to protect the aggrieved party from injury. More particularly, actionable negligence is the failure of one owing a duty to another to do what a reasonable and prudent person would ordinarily have done under the circumstances, or doing what such a person would not have done, which omission or commission is the proximate cause of injury to the other. 57 Am Jur 2d Negligence § 1.

Since Act 96 specifically provides that the services to be rendered by the convicted offender for the community are to be performed "under the supervision of a governmental agency or benevolent or charitable organization or other community service group or under appropriate supervision," it is a distinct possibility that the State, or its employees or volunteers could be held liable for what is commonly referred to as "negligent supervision." Negligent supervision can be based on no supervision at all, too little supervision, or unreasonable supervision. The extent of liability would depend on a multitude of factors and therefore cannot be determined in advance without reference to the factual situation. However, it can be said that an agency, organization, employee or volunteer must act reasonably, in light of the circumstances applicable to a particular fact situation.

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With respect to a particular convicted offender, for example, his safety as well as the danger he poses to third parties must be considered. Thus, for example, the tools or instruments used by an offender must be reasonable and safe and an agency should ensure that an offender is given the proper equipment (eg. hard hat) to carry out a task assigned to him. Offenders with violent characteristics should not be given weapons or tools which could be used as weapons and should be very closely supervised. Mentally defective defendants should not be asked to direct traffic or to work beyond their capacities.

2. To what extent, if any, are the participating agencies liable for any injury sustained or tortious act committed by the offender who performs community services as an authorized sentence disposition?

The participating agencies may be held liable along the same line as outlined in our answer to question 1 above. Although the convicted offender would not be considered an employee of the participating agency, the agency would still owe a duty to the offender, as well as to the public, to act reasonably in its relations to the defendant. Thus the agency would be required to exercise sufficient supervision over the offender to protect him from dangers to himself and to third parties.

3. In instances where court disposition allows the convicted offender the option of performing community service or serving a jail sentence and/or paying a fine/restitution and the offender elects the option of community service, are the courts and participating agencies liable to the same extent as when the offender is specifically ordered to perform community service?

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We state at the outset that we have some serious reservations as to whether a judge, in pronouncing his sentence, can give a criminal offender the option of choosing his punishment. Although we have not been able to find any case law on the matter, it would appear to us that allowing a criminal defendant to elect his punishment would amount to an improper delegation of judicial authority.

Assuming that such delegation were permissible, however, we believe that the courts and the participating agencies would be liable to the same extent regardless of whether the defendant is ordered by the judge into community service or whether defendant himself elects the option. The requirement that the courts and participating agencies conduct themselves reasonably in relation to the defendant's alternate community service would seem to apply regardless of which procedural device initiates the service.

4. What protections, if any, are available to the convicted offender in the event an accident occurs while the offender is under sentence to perform community service work?

The offender, not being considered an employee for any purposes, would not be covered by workers' compensation laws. However, the offender would be able to bring a civil suit for damages as any other plaintiff could.

5. Who is responsible to provide any necessary hospital/medical coverage in a situation where the offender has no medical insurance or other financial resources to cover the medical costs, and whose income precludes his eligibility for public assistance?

It would appear to us that under Act 96, the individual offender would continue to be responsible for payment of his own hospital and medical bills, except to the extent that he is protected by insurance. It is only

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after liability has been determined and a judgment rendered that a court or participating agency may be required to pay for the hospital and medical bills.

6. Who, if anyone, should assume responsibility to provide any necessary hospital/medical coverage and/or funeral expenses while the case is being litigated?

Again, Act 196 does not appear to alter the responsibility for hospital and medical coverage and/or funeral expenses. Therefore, until judgment is rendered, the responsibility remains that of the convicted offender, unless of course he is covered by insurance, or qualifies for public assistance. In this respect, the convicted offender stands in the same shoes as every other plaintiff who finds himself involved in a personal injury action in which he claims special damages, such as hospital and medical bills.

If you have any further question, please do not hesitate to call us.

Corinne K. A. Watanabe
CORINNE K. A. WATANABE
Deputy Attorney General

APPENDIX 5 - Letter to Mainland Court Referral
Programs Requesting Liability
Information



(Letter to mainland programs regarding liability)

Office of the Administrative Director of the Courts
The Judiciary • State of Hawaii

Post Office Box 2560 Honolulu, Hawaii 96804

William S. Richardson
Chief Justice

Lester E. Cingcade
Administrative Director

Tom Okuda
Deputy Director

Dear

RE: Community Service Sentencing

We are conducting an evaluation of the community service sentencing program currently in operation within the Judiciary of Hawaii, and would like some feedback from you in order to recommend possible program improvements. The two areas of concern to us are the liability/protection issues and a program evaluation model.

Regarding the liability and protection issue, we are interested in learning more about how you have addressed the following:

- 1) Liability for accidental injury sustained by the client while in your service. Do you feel your agency, the court, or other parties should provide hospital/medical coverage where the client cannot cover such costs and is not eligible for public assistance? What if the injury occurs due to supervisory negligence rather than the client's own carelessness?
- 2) Liability for tortious acts committed by the client while in service to an agency. Does your program provide any liability protection to participating agencies/organizations willing to provide a work placement for offenders?
- 3) We would be very interested in knowing whether any such liability protection for participating agencies/organizations is provided for by law. If so, may we also obtain a copy of the specific statute(s)?

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August 7, 1980

- 4) If there is no liability protection, how have you addressed the liability issue in your recruitment of agencies/organization(s)?

As to general program effectiveness, what can you tell us regarding your program evaluation model? Have you conducted any attitudinal surveys in the following areas; and if so, may we have a copy?

- 1) Benefits to participating agency (i.e. increased productive output, greater efficiency, easing of workloads, etc.).
- 2) Benefits to the client. (Do you think the program has given your clients a better picture of themselves and their role in the community?)
- 3) Problems encountered and to what extent (i.e. no shows, poor work performance, conduct of clients, difficulties in supervision, etc.).
- 4) Overall impressions of the clients referred to you.
- 5) Overall impressions of the program.
- 6) Communication between your agency and the courts. (Is there enough, too little, too much?)

Please feel free to include any additional comments and recommendations you wish to make regarding the community service program. Since we are operating under a time constraint, your prompt reply regarding our request will be most appreciated.

Thank you for your help. If you would also like any information on the community service sentencing program here, please contact Mr. Earl J. Yonehara, Volunteer Services Administrator, at this address.

Sincerely yours,

Roy Westlake

Roy Westlake
Criminal Justice Intern
Volunteers in Public Service
to the Courts

RW:mg

APPENDIX 6 - Occupational Classification System
from 1970 U.S. Census

(From the 1970 U.S. Census--Used to determine occupational groupings)

OCCUPATIONAL CLASSIFICATION SYSTEM

Equivalent alphabetic codes follow some codes. Either code may be utilized, depending on the processing method. " means "not elsewhere classified."

Occu- pation Code	PROFESSIONAL, TECHNICAL, AND KINDRED WORKERS	Occu- pation Code	PROFESSIONAL, TECHNICAL, AND KIND WORKERS--Continued.
001	Accountants	074	Nurses, dietitians, and therapists
002	Architects	075	Dietitians
	Computer specialists	076	Registered nurses
003	Computer programmers		Therapists
004	Computer systems analysts		Health technologists and technicians
005	Computer specialists, n.e.c.	080	Clinical laboratory technologists and technici
	Engineers	081	Dental hygienists
006	Aeronautical and astronautical engineers	082	Health record technologists and technicians
010	Chemical engineers	083	Radiologic technologists and technicians
011	Civil engineers	084	Therapy assistants
012	Electrical and electronic engineers	085	Health technologists and technicians, n.e.c.
013	Industrial engineers		Religious workers
014	Mechanical engineers	086	Clergymen
015	Metallurgical and materials engineers	090	Religious workers, n.e.c.
020	Mining engineers		Social scientists
021	Petroleum engineers	091	Economists
022	Sales engineers	092	Political scientists
023	Engineers, n.e.c.	093	Psychologists
024	Farm management advisors	094	Sociologists
025	Foresters and conservationists	095	Urban and regional planners
026	Home management advisors	096	Social scientists, n.e.c.
	Lawyers and judges		Social and recreation workers
030	Judges	100	Social workers
031	Lawyers	101	Recreation workers
	Librarians, archivists, and curators		Teachers, college and university
032	Librarians	102	Agriculture teachers
033	Archivists and curators	103	Atmospheric, earth, marine, and space teache
	Mathematical specialists	104	Biology teachers
034	Actuaries	105	Chemistry teachers
035	Mathematicians	110	Physics teachers
036	Statisticians	111	Engineering teachers
	Life and physical scientists	112	Mathematics teachers
042	Agricultural scientists	113	Health specialties teachers
043	Atmospheric and space scientists	114	Psychology teachers
044	Biological scientists	115	Business and commerce teachers
045	Chemists	116	Economics teachers
051	Geologists	120	History teachers
052	Marine scientists	121	Sociology teachers
053	Physicists and astronomers	122	Social science teachers, n.e.c.
054	Life and physical scientists, n.e.c.	123	Art, drama, and music teachers
055	Operations and systems researchers and analysts	124	Coaches and physical education teachers
056	Personnel and labor relations workers	125	Education teachers
	Physicians, dentists, and related practitioners	126	English teachers
061	Chiropractors	130	Foreign language teachers
062	Dentists	131	Home economics teachers
063	Optometrists	132	Law teachers
064	Pharmacists	133	Theology teachers
065	Physicians, medical and osteopathic	134	Trade, industrial, and technical teachers
071	Podiatrists	135	Miscellaneous teachers, college and university
072	Veterinarians	140	Teachers, college and university, spec
073	Health practitioners, n.e.c.		specified

[illegible]

Occupation Code	CLERICAL AND KINDRED WORKERS—Continued	Occupation Code	CRAFTSMEN AND KINDRED WORKERS—Continued
	Office machine operators—Continued		
345	Key punch operators	453	Jewelers and watchmakers
350	Tabulating machine operators	454	Job and die setters, metal
355	Office machine operators, n.e.c.	455	Locomotive engineers
360	Payroll and timekeeping clerks	456	Locomotive firemen
361	Postal clerks	461	Machinists
362	Proofreaders	462	Machinist apprentices
363	Real estate appraisers		Mechanics and repairmen
364	Receptionists	470	Air conditioning, heating, and refrigeration
	Secretaries	471	Aircraft
370	Secretaries, legal	472	Automobile body repairmen
371	Secretaries, medical	473 (S)	Automobile mechanics
372 (Q)	Secretaries, n.e.c.	474	Automobile mechanic apprentices
374	Shipping and receiving clerks	475	Data processing machine repairmen
375	Statistical clerks	480	Farm implement
376	Stenographers	481	Heavy equipment mechanics, incl. diesel
381	Stock clerks and storekeepers	482	Household appliance and accessory instal- mechanics
382	Teacher aides, exc. school monitors		Loom fixers
383	Telegraph messengers	483	Office machine
384	Telegraph operators	484	Radio and television
385	Telephone operators	485	Railroad and car shop
390	Ticket, station, and express agents	486	Mechanic, exc. auto, apprentices
391	Typists	491	Miscellaneous mechanics and repairmen
392	Weighers	492	Not specified mechanics and repairmen
394	Miscellaneous clerical workers	495	Millers; grain, flour, and feed
395	Not specified clerical workers	501	Millwrights
	CRAFTSMEN AND KINDRED WORKERS	502	Molders, metal
401	Automobile accessories installers	503	Molder apprentices
402	Bakers	504	Motion picture projectionists
403	Blacksmiths	505	Opticians, and lens grinders and polishers
404	Boilermakers	506	Painters, construction and maintenance
405	Bookbinders	510	Painter apprentices
410	Brickmasons and stonemasons	511	Paperhangers
411	Brickmasons and stonemasons, apprentices	512	Pattern and model makers, exc. paper
412	Bulldozer operators	514	Photoengravers and lithographers
413	Cabinetmakers	515	Piano and organ tuners and repairmen
415 (R)	Carpenters	516	Plasterers
416	Carpenter apprentices	520	Plasterer apprentices
420	Carpet installers	521	Plumbers and pipe fitters
421	Cement and concrete finishers	522	Plumber and pipe fitter apprentices
422	Compositors and typesetters	523	Power station operators
423	Printing trades apprentices, exc. pressmen	525	Pressmen and plate printers, printing
424	Cranemen, derrickmen, and hoistmen	530	Pressman apprentices
425	Decorators and window dressers	531	Rollers and finishers, metal
426	Dental laboratory technicians	533	Roofers and slaters
430	Electricians	534	Sheetmetal workers and tinsmiths
431	Electrician apprentices	535	Sheetmetal apprentices
433	Electric power linemen and cablemen	536	Shiffitters
434	Electrotypers and stereotypers	540	Shoe repairmen
435	Engravers, exc. photoengravers	542	Sign painters and letterers
436	Excavating, grading, and road machine operators; exc. bulldozer	543	Stationary engineers
440	Floor layers, exc. tile setters	545	Stone cutters and stone carvers
441	Foremen, n.e.c.	546	Structural metal craftsmen
442	Forgemen and hammermen	550	Tailors
443	Furniture and wood finishers	551	Telephone installers and repairmen
444	Furriers	552	Telephone linemen and splicers
445	Glaziers	554	Tile setters
446	Heat treaters, annealers, and temperers	560	Tool and die makers
450	Inspectors, scalers, and graders; log and lumber	561	Tool and die maker apprentices
452	Inspectors, n.e.c.	562	Upholsterers
		563	Specified craft apprentices, n.e.c.
		571	Not specified apprentices
		572	

Occupation Code	CRAFTSMEN AND KINDRED WORKERS— Continued	Occupation Code	TRANSPORT EQUIPMENT OPERATIVES
75 30	Craftsmen and kindred workers, n.e.c. Former members of the Armed Forces	701	Boatmen and canalmen
		703	Bus drivers
		704	Conductors and motormen, urban rail transit
		705	Deliverymen and routemen
		706	Fork lift and tow motor operatives.
		710	Motormen; mine, factory, logging camp, etc.
		711	Parking attendants
		712	Railroad brakemen
		713	Railroad switchmen
		714	Taxicab drivers and chauffeurs
		715 (U)	Truck drivers
	OPERATIVES, EXCEPT TRANSPORT		
601	Asbestos and insulation workers		
602 (T)	Assemblers		
603	Blasters and powdermen		
604	Bottling and canning operatives		
605	Chainmen, rodmen, and axmen; surveying		
610	Checkers, examiners, and inspectors; manufacturing		
611	Clothing ironers and pressers		
612	Cutting operatives, n.e.c.		
613	Dressmakers and seamstresses, except factory		
614	Drillers, earth		
615	Dry wall installers and lathers		
620	Dyers		
621	Fillers, polishers, sanders, and buffers		
622	Furnacemen, smeltermen, and pourers		
623	Garage workers and gas station attendants		
624	Graders and sorters, manufacturing		
625	Produce graders and packers, except factory and farm		
626	Heaters, metal		
630	Laundry and dry cleaning operatives, n.e.c.		
631	Meat cutters and butchers, exc. manufacturing		
633	Meat cutters and butchers, manufacturing		
634	Meat wrappers, retail trade		
635	Metal platers		
636	Milliners		
640	Mine operatives, n.e.c.		
641	Mixing operatives		
642	Oilers and greasers, exc. auto		
643	Packers and wrappers, except meat and produce		
644	Painters, manufactured articles		
645	Photographic process workers		
	Precision machine operatives		
650	Drill press operatives		
651	Grinding machine operatives		
652	Lathe and milling machine operatives		
653	Precision machine operatives, n.e.c.		
656	Punch and stamping press operatives		
660	Riveters and fasteners		
661	Sailors and deckhands		
662	Sawyers		
663	Sewers and stitchers		
664	Shoemaking machine operatives		
665	Solderers		
666	Stationary firemen		
	Textile operatives		
670	Carding, lapping, and combing operatives		
671	Knitters, loopers, and toppers		
672	Spinners, twistors, and winders		
673	Weavers		
674	Textile operatives, n.e.c.		
680	Welders and flame-cutters		
681	Winding operatives, n.e.c.		
690	Machine operatives, miscellaneous specified		
692	Machine operatives, not specified		
694	Miscellaneous operatives		
695	Not specified operatives		
			LABORERS, EXCEPT FARM
		740	Animal caretakers, exc. farm
		750	Carpenters' helpers
		751 (V)	Construction laborers, exc. carpenters' helpers
		752	Fishermen and oystermen
		753	Freight and material handlers
		754	Garbage collectors
		755	Gardeners and groundskeepers, exc. farm
		760	Longshoremen and stevedores
		761	Lumbermen, raftsmen, and woodchoppers
		762	Stock handlers
		763	Teamsters
		764	Vehicle washers and equipment cleaners
		770	Warehousemen, n.e.c.
		780	Miscellaneous laborers
		785	Not specified laborers
			FARMERS AND FARM MANAGERS
		801 (W)	Farmers (owners and tenants)
		802	Farm managers
			FARM LABORERS AND FARM FOREMEN
		821	Farm foremen
		822	Farm laborers, wage workers
		823	Farm laborers, unpaid family workers
		824	Farm service laborers, self-employed
			SERVICE WORKERS, EXC. PRIVATE HOUSEHOLD
			Cleaning service workers
		901	Chambermaids and maids, except private household
		902	Cleaners and charwomen
		903 (X)	Janitors and sextons
			Food service workers
		910	Bartenders
		911	Busboys
		912	Cooks, except private household
		913	Dishwashers
		914	Food counter and fountain workers
		915 (Y)	Waiters
		916	Food service workers, n.e.c., except private household

Occupation Code	SERVICE WORKERS, EXC. PRIVATE HOUSEHOLD—Continued	Occupation Code	PRIVATE HOUSEHOLD WORKERS
921	Health service workers	980	Child care workers, private household
922	Dental assistants	981	Cooks, private household
923	Health aides, exc. nursing	982	Housekeepers, private household
924	Health trainees	983	Laundresses, private household
925	Lay midwives	984 (Z)	Maids and servants, private household
926	Nursing aides, orderlies, and attendants		
	Practical nurses	995	OCCUPATION NOT REPORTED ²
			ALLOCATION CATEGORIES ³
931	Personal service workers	196	Professional, technical, and kindred workers—
932	Airline stewardesses	246	Managers and administrators, except farm—allo
933	Attendants, recreation and amusement	296	Sales workers—allocated
934	Attendants, personal service, n.e.c.	396	Clerical and kindred workers—allocated
935	Baggage porters and bellhops	586	Craftsmen and kindred workers—allocated
940	Barbers	696	Operatives, except transport—allocated
941	Boarding and lodging house keepers	726	Transport equipment operatives—allocated
942	Bootblacks	796	Laborers, except farm—allocated
943	Child care workers, exc. private household	806	Farmers and farm managers—allocated
944	Elevator operators	846	Farm laborers and farm foremen—allocated
945	Hairdressers and cosmetologists	976	Service workers, exc. private household—alloca
946	Personal service apprentices	986	Private household workers—allocated
950	Housekeepers, exc. private household		
952	School monitors		
953	Ushers, recreation and amusement		
954	Welfare service aides.		
960	Protective service workers		
961	Crossing guards and bridge tenders		
962	Firemen, fire protection		
963	Guards and watchmen		
964	Marshals and constables		
965	Policemen and detectives		
	Sheriffs and bailiffs		

APPENDIX 7 - Offense by Average Community
Service Hours Sentenced:
Circuit, Family and District
Courts for '78-79

(APPENDIX B3 CONTINUED)

OFFENSE	AVERAGE HOURS	NUMBER OF OFFENDERS	PER CENT
Traffic.....	31.9	235	
Speeding	21.1	68	14.0
Driving Under the Influence	52.0	57	11.7
Driving Without License	37.2	28	5.7
No Drivers License on Person	34.0	10	2.1
Safety Check	10.2	8	1.6
Other Traffic	55.6	8	1.6
Disregarding Stop Sign	13.7	7	1.4
No-Fault Insurance	27.3	6	1.2
Parking Violation	18.0	6	1.2
Crossing Solid Line	12.0	5	1.0
Careless Driving	52.2	4	0.8
Fraudulent Use of License Plates	21.0	4	0.8
Driving With Suspended License	44.0	4	0.8
Driving Wrong Way on One-Way St.	14.7	3	0.6
Improper Left Turn	16.0	3	0.6
Accident Involving Damage to Property	21.0	2	0.4
Jay Walking	7.0	2	0.4
Untaxed Vehicle	7.0	2	0.4
No Reconstruction Permit	17.0	2	0.4
Prohibited U-Turn	16.0	1	0.2
Right Turn on Red	12.0	1	0.2
No License Plates	12.0	1	0.2
No Registration Permit	36.0	1	0.2
No Headlights	20.0	1	0.2
Other.....	18.2	29	2.7
Contempt	21.8	13	2.6
Camping Without Permit	12.5	6	1.2
Harbor Regulation	7.0	2	0.4
Fishing Without Permit	12.0	1	0.2
Unlicensed Masseuse	12.0	1	0.2
Fishing Violation	8.0	1	0.2
Obedience to Officer	10.0	1	0.2
Not Available	24.0	4	0.4
No Data on Hours.....	-	5	1.0

APPENDIX B3. OFFENSE BY AVERAGE COMMUNITY SERVICE HOURS
SENTENCED: DISTRICT COURT, 1ST CIRCUIT

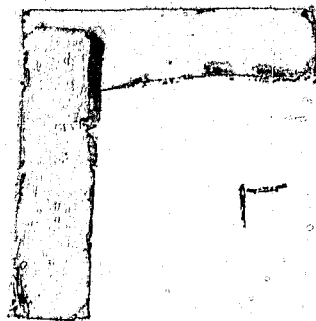
OFFENSE	AVERAGE HOURS	NUMBER OF OFFENDERS	PER CENT
Against Person.....	35.5	23	
Assault III	46.5	12	2.5
Harassment	24.0	8	1.6
Reckless Endangering	22.0	3	0.6
Against Habitation.....	19.2	8	
Criminal Trespass II	20.0	5	1.0
Simple Trespass	12.0	2	0.4
Criminal Trespass I	30.0	1	0.2
Against Property.....	24.2	109	
Theft III	26.7	69	14.2
Criminal Littering	5.7	27	5.6
Theft II	45.0	5	1.0
Crim. Property Damage II	15.3	3	0.6
Welfare Fraud	120.0	2	0.4
Crim. Property Damage III	30.0	1	0.2
Fraudulent Credit Card Use	100.0	1	0.2
Criminal Tampering	1.0	1	0.2
Sex and Related.....	19.3	22	
Prostitution	19.6	19	3.9
Open Lewdness	11.0	2	0.4
Promoting Prostitution III	30.0	1	0.2
Against Public Order.....	20.5	30	
Disorderly Conduct	18.8	26	5.3
Other Firearms/Ammunition	36.3	3	0.6
Carrying Deadly Weapon	18.0	1	0.2
Against Public Administration.....	35.0	3	
Resisting Order to Stop Car	37.5	2	0.4
Refusing to Aid Peace Officer	30.0	1	0.2
Against Public Health.....	21.3	23	
Promoting Detrimental Drugs III	22.2	15	3.1
Promoting Intoxicating Compounds	16.6	7	1.4
Promoting Detrimental Drugs II	42.0	1	0.2

APPENDIX B2. OFFENSE BY AVERAGE COMMUNITY SERVICE
HOURS SENTENCED: FAMILY COURT

OFFENSE	AVERAGE HOURS	NUMBER OF OFFENDERS	PER CENT
Against Person.....	21.0	10	
Harassment	17.5	4	4.3
Assault III	22.5	4	4.3
Robbery II	25.0	2	2.2
Against Habitation.....	19.1	42	
Burglary II	16.3	30	32.3
Burglary I	30.0	8	8.6
Accomplice to Burglary II	10.0	3	3.2
Accomplice to Attempted Burglary I	44.0	1	1.1
Sex and Related.....	40.0	1	1.1
Attempted Rape	40.0	1	1.1
Against Public Administration.....	48.0	1	1.1
Probation Violation	48.0	1	1.1
Against Public Health.....	5.0	1	1.1
Promoting Detrimental Drugs III	5.0	1	1.1
Status Offenses.....	25.2	4	4.3
Person in Need of Supervision	15.5	2	2.2
Protective Supervision Violation	10.0	1	1.1
Incorrigible	60.0	1	1.1
Other.....	6.0	2	2.2
(No data on hours)		(9)	

APPENDIX B1. OFFENSE BY AVERAGE COMMUNITY SERVICE
HOURS SENTENCED: CIRCUIT COURTS

OFFENSE	AVERAGE HOURS	NUMBER OF OFFENDERS	PER CENT
Against Person.....	91.7	6	
Negligent Homicide I	75.0	2	4.6
Negligent Homicide II	125.0	2	4.6
Assault III	75.0	2	4.6
Against Habitation.....	70.0	2	
Burglary II	70.0	2	4.6
Against Property.....	73.9	12	
Theft I (Stolen Property)	85.7	7	16.3
Theft I (Larceny)	45.7	3	7.0
Criminal Property Damage I	50.0	1	2.3
Forgery II	100.0	1	2.3
Against Public Order.....	45.0	2	
Cruelty to Animals	50.0	1	2.3
Other Firearms Offense	40.0	1	2.3
Against Public Health.....	53.7	21	
Promoting Detrimental Drugs I	60.7	7	16.3
Promoting Dangerous Drugs III	60.0	5	11.6
Promoting Detrimental Drugs II	36.5	2	4.6
Promoting Dangerous Drugs I	50.0	2	4.6
Possession of Gambling Records I	50.0	2	4.6
Promoting Dangerous Drugs II	30.0	1	2.3
Promoting Harmful Drugs I	50.0	1	2.3
Possession of Gambling Records II	50.0	1	2.3
(No Data on Hours)		(6)	



END