

Granting Felons Probation

Public Risks and Alternatives

Joan Petersilia, Susan Turner, James Kahan,
Joyce Peterson

96669

and

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PREFACE

This study is part of Rand's continuing analysis of the conditions, problems, and policy options of the criminal justice system. Probation has historically captured less research interest than any other component of that system. We believe that this lack of attention reflects the general assumptions, made even in policy circles, that (1) most probationers were convicted of minor offenses—misdemeanors or first-time drug and property crimes, (2) probation agencies are responsible only for supervising these kinds of offenders and preparing presentencing investigations, and (3) probation agencies have a clear mission and sufficient resources to carry out their responsibilities. We believe that under present conditions, these assumptions are false.

Probation has become the dominant sentencing alternative in this country: Between 60 and 80 percent of all convicted criminals are sentenced to probation. By 1984, about 1 percent of all Californians were convicts on probation. And about one-third of these probationers are adults who were convicted in Superior Court of felony crimes. Moreover, the recidivism of a sample of felony probationers in Los Angeles and Alameda counties indicates that these people present a considerable threat to public safety. Yet probation agencies are being asked to handle these serious offenders under circumstances that make it impossible to adequately supervise even their traditional clients. Faced with severe fiscal constraints, most states have cut probation budgets and staff, while giving probation agencies additional responsibilities. California's total criminal justice expenditures have increased by 30 percent since 1975, but expenditures for probation actually declined by more than 10 percent.

Policymakers must begin to look very closely at probation, at the public risks of probation for convicted felons, and at possible alternative sanctions. In anticipation of the problems and questions that this policy debate will raise, the National Institute of Justice asked The Rand Corporation to undertake a systematic examination of probation and its effectiveness as a sentence for felony offenders. We believe that the methodology developed in this study will be useful for further research efforts, and that the conclusions and recommendations presented in this report will help clarify and inform the debate over probation policies.

SUMMARY

Over the last two decades, rising crime rates have led to public demand that criminals be treated more harshly. A greater percentage of convicted felons are being imprisoned than ever before in our nation's history, but at the same time, budget limitations have made it impossible to build prisons fast enough to keep pace with felony convictions. The nation's prisons have become so critically overcrowded that the courts now must consider alternative sentences for an increasing number of convicted felons. Probation is the major—and in many cases, the only—alternative. The sentencing of adults convicted of felony crimes to probation has become so widespread that a new term has emerged in criminal justice circles: *felony probation*.¹ Today, over one-third of California's probation population consists of felons convicted in Superior Court—persons who are often quite different from the less serious offenders probation was originally conceived and structured to handle. In view of this situation, it is imperative that policymakers rethink some basic assumptions about probation and its mission, examine the public risks of putting felons on probation, and consider alternative means of punishing them.

Unfortunately, past research provides little help for policymakers. There has been little research on probation in general, and even less on felony probation. The study described in this report attempts to answer some of the basic questions that criminal justice policymakers will have to address:

- What criteria are being used by the courts to decide which offenders convicted of particular types of crimes will be imprisoned and which will be granted probation?
- How well do convicted felons behave once granted probation? How many are rearrested, reconvicted, and reimprisoned?
- How accurately can models based on regression techniques predict which felons will recidivate and which will not?
- If the answers to these questions indicate that probation is not appropriate for most felons, can workable sentencing alternatives be devised?

To answer these questions, we performed several types of statistical analyses (including simple cross-tabulations and regression analyses)

¹Juveniles and persons convicted of misdemeanors in Lower Court are, by definition, excluded from the felony probation population.

on two sets of data provided by the California Board of Prison Terms (CBPT). Using detailed CBPT information on every person sentenced to California state prisons in 1980, and the same information for a sample of adult males who were sentenced to probation in 1980 after being convicted in Superior Court, we created a dataset of approximately 16,500 males convicted in 17 of California's largest counties and sentenced to prison or probation. These statewide data were then analyzed to answer questions about the sentencing criteria being used. To study probationer recidivism rates, we selected a subsample of 1,672 felony probationers sentenced in Los Angeles and Alameda counties. We followed up these probationers for a maximum of 40 months, recording their arrests, filings, convictions, and incarcerations.

Although the data used in our study are limited to California, we believe our findings have significance for other states as well. California's probation system is the largest in the nation, was once regarded as the most innovative, and has suffered the most severe budget cuts. Consequently, its experiences should prove instructive to other states.

We must emphasize that these findings should not be generalized to assess the overall effectiveness of probation. This study deals only with adult felony probationers, the most potentially dangerous members of the probation population. Because this subset comprises only about 35 percent of the entire adult California probation population, our conclusions cannot be generalized to the total probation population. Furthermore, our recidivism analysis examines probationers in two counties that have experienced severe budget cuts and growing caseloads. The recidivism rates for these probationers may differ from those of probationers in other California counties that operate with more adequate budgets. Nevertheless, by focusing specifically on adult felons on probation, we have been able to address many issues that are vital to assessing the effectiveness of probation for serious offenders or as an alternative to prison. Moreover, although Los Angeles and Alameda may not be "typical" counties, they are important to study because they contain 43 percent of the California probation population.

MAJOR FINDINGS AND CONCLUSIONS

In our opinion, felons granted probation present a serious threat to public safety. During the 40-month follow-up period of our study, 65 percent of the probationers in our subsample were rearrested, 51 percent were reconvicted, 18 percent were reconvicted of serious violent

crimes,² and 34 percent were reincarcerated. Moreover, 75 percent of the official charges filed against our subsample involved burglary/theft, robbery, and other violent crimes—the crimes most threatening to public safety.

The performance of felony probationers raises questions about the sentencing criteria the courts use in the prison/probation decision. There is a high correlation between sentencing to prison and offenders' "basic factors" (i.e., having two or more conviction counts, having two or more prior convictions, being on parole or probation at the time of arrest, being drug addicts, being armed, using a weapon, or seriously injuring the victim). For all offenses except assault, offenders having three or more of these characteristics had an 80 percent probability of going to prison in California, regardless of the type of crime of which they were currently convicted. The factors identified by our statistical models as significant in the prison/probation decision are quite consistent with those that the California Penal Code (Sec. 1203) states should be weighed prior to granting probation in felony cases.

After controlling for these basic factors, we performed analyses to determine whether the manner in which the case was officially processed by the courts made a difference in the prison/probation decision. The analyses revealed that having a private attorney could reduce a defendant's chances of imprisonment for all six offenses. For drugs and forgery cases, whether the defendant was represented by a public or court-appointed attorney was not significant. For all six of the crimes we considered, obtaining pretrial release lessened the probability of going to prison, whereas going to trial (except for forgery) increased that probability. These "process" variables significantly affect the prison/probation decision even after all the basic factors have been statistically controlled—that is, when all the offenders are statistically "interchangeable" except for their court handling.

We statistically predicted offenders' sentences, using our basic-factors regression results, and then compared our predictions with the sentences the offenders actually received. We found that between 20 and 25 percent of the sample received sentences at odds with our statistical predictions. These data suggest that many offenders who are granted felony probation are indistinguishable in terms of their crimes or criminal record from those who are imprisoned.

This lack of correspondence between statistically predicted sentences and the sentences actually received would not be inherently bad if it reflected the courts' ability to identify offenders who were likely to succeed on probation, even though statistical models suggested they

²Homicide, rape, weapons offenses, assault, and robbery.

were candidates for prison, based on the recorded facts. Unfortunately, that did not prove true in the majority of cases in Los Angeles and Alameda counties. In our subsample, 78 percent of those who were granted probation when our models predicted imprisonment were eventually rearrested. The recidivism rate for felons for whom our model had predicted a probation sentence was considerably lower—55 percent. This pattern also held for charging and reconviction rates.

These findings indicate that the factors specified by law as appropriate considerations in the prison/probation decision appear, in practice, to strongly influence that decision. Moreover, these indicators probably should be used more consistently in sentencing, since they are also related to probationer recidivism. However, our findings also suggest that, *given the information now routinely provided to the court*, the ability to predict which felons will succeed on probation probably cannot be vastly improved.

To determine which factors were associated with rearrests, reconvictions, and reconvictions for violent crime, we created a hierarchy of levels of information similar to the hierarchy the court uses in the prison/probation decision. Through regression analysis, we found that the following factors predicted recidivism: type of conviction crime (property offenders recidivated most often); number of prior juvenile and adult convictions (the greater the number, the greater the recidivism); income at arrest (some income was associated with lower recidivism); and whether the offender was living with spouse and/or children (if yes, recidivism was lower). After controlling for these factors, we found no effects for factors such as drug abuse, prior probation revocations, or education level.

But how accurately were we able to predict which offenders would recidivate and which would not? For the total probation sample, knowing the type of conviction crime allowed us to predict rearrest with 56 percent accuracy. If we also considered prior criminal record and alcohol and drug use, our accuracy improved by 11 percent. Adding demographics increased our accuracy only 2 percent more—for a total of 69 percent accuracy in predicting rearrests. Additional information from the presentence investigation (PSI) (e.g., mitigating and aggravating factors) contributed virtually nothing to prediction accuracy. We predicted subsequent convictions with 64 percent accuracy, and violent crime convictions with 71 percent accuracy.

Our attempts to predict recidivism for offenders convicted of different crime types were not much more successful. However, our predictive accuracy was highest for offenders originally convicted of drug crimes.

Knowing the probation officers' sentence recommendation (for or against the granting of probation) did little to improve our recidivism prediction, once the offender's background and criminal history had been statistically controlled. Sixty-three percent of those recommended for probation in the PSI report were subsequently rearrested, as compared with 67 percent of those recommended for prison.

To attempt to identify offenders who would have a relatively high chance of succeeding on probation, we created a statistical model, based on regression analyses, of "good prospects" for probation. We applied this model to our entire sample of prisoners sentenced in 1980 to estimate the number of people sentenced to prison who had characteristics similar to those of successful probationers (i.e., those having no new convictions) and who thus could probably have been safely placed on probation. Unfortunately, only about 3 percent of our "incoming" prisoner sample were identified as having at least a 75 percent chance of succeeding on probation. This reinforces our general finding that very few adults convicted of felonies in Los Angeles and Alameda counties are good candidates for probation, as it is now administered.

We believe that the criminal justice system needs an alternative, intermediate form of punishment for those offenders who are too antisocial for the relative freedom that probation now offers, but not so seriously criminal as to require imprisonment. A sanction is needed that would impose intensive surveillance, coupled with substantial community service and restitution. It should be structured to satisfy public demands that the punishment fit the crime, to show criminals that crime really does not pay, and to control potential recidivists.

What might such a sentencing alternative look like, and how could the courts identify appropriate candidates? Several states have experimental programs in place which indicate that an intensive surveillance program (ISP) should have intensive monitoring and supervision; real constraints on movement and action; employment; added requirements of community service, education, counseling, and therapy programs; and mechanisms for immediately punishing probationers who commit infractions. Early evaluations of programs in New York and Wisconsin offer hope that intensive surveillance may reduce the recidivism rates of high-risk offenders.

We believe that ISPs will be one of the most significant criminal justice experiments in the next decade. If ISPs prove successful, they will restore probation's credibility and reduce imprisonment rates without increasing crime. Most important, they may offer the prospect of rehabilitating some of the offenders who participate.

If ISPs had been an available alternative when the felons in our sample were sentenced, and our guidelines and grids had been used, approximately the same number would have been sent to prison, 13 percent would have been placed on summary or "mail-in" probation, 12 percent would have been placed in ISPs, and the traditional probation group would have been reduced from 66 percent to 41 percent.

IMPLICATIONS OF THE STUDY

Inadequate probation budgets, prison overcrowding, and the demand for harsher punishments have all been blamed for probation's current failures, but the root of the problem is much deeper. The U.S. criminal justice system has never developed a spectrum of sanctions to match the spectrum of criminality. There is virtually no means of incapacitating offenders except imprisonment. Some have argued that the United States overutilizes imprisonment because it is the only severe punishment available. Convicted offenders are either locked up or given probation, with or without a jail term. Yet, at least in Los Angeles and Alameda counties, probation has failed to constrain a majority of offenders.

We do not mean this as an indictment of probation departments. With their reduced budgets and mountainous caseloads, they cannot be expected to supervise probationers more closely. But even if they could, traditional probation was not conceived or structured to handle serious offenders. And what is worse, these offenders appear to have crowded out the traditional probationer population—first offenders, petty thieves, drug offenders, and disrupters—many of whom evidently see the system's "indifference" as encouragement to commit more serious crimes.³

We believe the current troubles are self-perpetuating. Without alternative sanctions for serious offenders, prison populations will continue to grow and the courts will be forced to consider probation for more and more serious offenders. Probation caseloads will increase, petty offenders will be increasingly "ignored" by the system (possibly creating more career criminals), and recidivism rates will rise. In short, probation appears to be heading toward an impasse, if not a total breakdown, if substantially more funds are not made available to create more prison space. Since that is highly unlikely (and also, we believe, undesirable), alternative, "intermediate" punishments must be developed and implemented. However, such efforts will raise a number

³Prior Rand research has shown that believing he or she can "get away with it" is a hallmark of a career criminal (Peterson et al., 1980).

of issues and will have important implications for criminal justice policy, management, and research.

Public Response

As the public becomes increasingly aware of the number of probationers who are serious felons, pressure will be exerted for harsher sentences despite fiscal limitations. The public may demand that more prisons be built, even if it means cutting government budgets for other services. Proponents of intermediate punishment programs will therefore have to be politically adept at presenting not only the positive aspects of community-based sentencing, but also the negative implications of building more prisons.

Prison construction is far more expensive than ISPs, but more important, it perpetuates the neglect of possibly more effective alternatives. Intensive community surveillance programs, on the other hand, would force offenders to be gainfully employed, functioning members of a community, and this might help them break old habits and establish new and more positive life styles. Programs that combine heavy surveillance with intensive intervention efforts may rehabilitate many serious criminals who would have become hardened by the prison experience.

Rethinking the Nature and Function of Probation

Probation agencies presently supervise two-thirds of all convicted offenders. They also process PSIs and handle intake procedures, collections, and numerous other related matters, making probation the major component in the U.S. system of sanctions. It should be recognized and funded as such, but increased funding alone will not improve the situation we have described. Probation needs a new, formal mandate that establishes its mission and recognizes the kinds of offenders it now faces.

Because probation has lacked an explicit definition and mission, jurisdictions have used it as a catchall, assigning to it tasks that did not fit clearly elsewhere. This has led to overburdened and weakened supervision. It has also confused probation officers about their role: Should they consider themselves counselors, caseworkers, service brokers, law-enforcement officers, or some combination of these? If probation agencies are to be responsible for administering a spectrum of alternatives to prison, they must have officers who are both rehabilitation agents and brokers of services, as well as supervisors with law-enforcement powers. This will require different recruitment and training programs from those used for traditional probation officers.

Problems for Establishing Intensive Surveillance Programs

Although we believe that ISPs are promising alternatives to prison, their effectiveness will depend on the resolution of complex design and funding issues. Little research has been done to determine the characteristics these programs should have. Moreover, although ISPs would cost much less than new prisons, they would cost much more than traditional probation programs, so that if a substantial proportion of the felons who are now put on probation were put into ISPs, the total costs to the criminal justice system would rise precipitously. Funds could, however, come from the kinds of fines, penalty assessments, and "user fees" that California currently collects from convicted offenders. Additional funds might come from implementing risk-prediction models that identify "low-risk" probationers needing minimal supervision, thus allowing more resources to be applied to high-risk individuals.

Implementing ISPs would also present staggering logistical problems. And such programs could initially accommodate only a small percentage of eligible offenders, so they would not relieve the pressure on prisons and traditional probation programs for quite some time.

Improving Risk Prediction

Rising crime rates and prison overcrowding have made risk prediction the central issue of the 1980s for criminal justice policy. To establish a spectrum of sentencing alternatives, risk prediction must be improved, along with the ability to distinguish among different risk levels. Based on our findings and those of other studies, we believe that risk prediction could be improved if the courts had greater access to different kinds of information and if they understood the available information better. For example, criminal justice research has repeatedly shown a strong association between juvenile criminal history and adult criminality. Yet detailed information on early criminal activity (e.g., date of first arrest, juvenile drug use, record of juvenile incarcerations) sometimes does not appear in an offender's official criminal record or in the PSI. Moreover, although PSIs frequently cite an offender's willingness to inform on accomplices as a justification for recommending probation, among the probationers we studied, those whose PSIs cited that factor were somewhat *more likely* to have new convictions than those whose PSIs did not.

In addition to seeking greater predictive accuracy, it may be necessary to develop sentencing strategies that consider risk predictors within a "just deserts" model. Using such a model, the courts would

base the prison/probation decision primarily on the conviction offense and prior criminal history and would then use characteristics strongly associated with recidivism to make decisions about length of incarceration, possibility of parole, etc., for prisoners, or type and length of community supervision for probationers.⁴

RECOMMENDATIONS

Our conclusions suggest several policy and research recommendations. These recommendations reflect possible rather than ideal solutions to the problems we have discussed.

Policy Recommendations

The mission of probation and the responsibilities of probation agencies should be redefined, limited, and explicitly stated, by statute if necessary. The criminal justice system has not explicitly recognized the broadening of probation's mission from primarily rehabilitation to the inclusion of restrictive supervision. Nor has it implicitly recognized this change by altering the responsibilities and structure of probation agencies. In California, the situation now demands that public safety be given higher priority. The state should adopt a formal mission statement establishing probation's primary (if not only) responsibilities as those of informing court decisions on appropriate sanctions for convicted offenders; providing active supervision of juvenile and adult probationers; and providing services and programs aimed at socializing offenders in the community.

In response to changes in the probation population, the system should redefine the role and powers of probation officers. Probation officers cannot deal with felony probationers in the same ways they have dealt with misdemeanants. *We certainly do not recommend that they abandon their counseling or rehabilitative roles;* however, because the probation population includes a large number of active criminals, we support the growing legal and policy trend toward quasi-policing roles for probation officers, wherever the situation warrants it. Attention should also be paid to the recruitment and training of probation officers. Different skills may be required of officers whose primary responsibility is surveillance rather than rehabilitation.

⁴We believe that these models do not raise the legal and ethical questions that many models of selective incapacitation do. Because they use the predictors secondarily, they implicitly recognize the fallibility of prediction. Moreover, if they are used only for sentencing convicted felons, they would affect only those who are already legally liable to go to prison.

The risk/needs assessment scales promoted by the National Institute of Corrections and adopted by many probation departments nationwide should be strongly endorsed. Formal case-management scales ensure that similar offenders are handled in similar ways. They also formally structure and define the activities of probation departments, and assure that appropriate supervision is assigned on the basis of offender risk levels. We strongly support such efforts and believe that they reaffirm probation's commitment to both surveillance/supervision and offender service.

State criminal justice systems should develop punitive community-based alternatives to prison for convicted felons, even where problems of severe prison overcrowding have not yet occurred. Unless states have community-based alternatives in place, they may ultimately confront the same sentencing dilemma that plagues California, with the same resulting threat to public safety. If prisons become overcrowded, community-based alternatives will permit the system to gain the maximum incapacitation effects from available prison space.

Research Recommendations

Exactly how much, and in what ways, does prison overcrowding affect the criminal justice system's treatment of offenders? We have assumed that prison overcrowding influences sentencing decisions; however, there is no systematic or explicit evidence of this. Nor do we know how prison overcrowding affects the treatment of offenders throughout the process. For example, do police refrain from arresting some suspects or investing time to get charges filed because they realize how many serious offenders are likely to get probation? Do prosecutors accept pleas rather than pushing for trial for the same reason? Does overcrowding affect the way corrections staff in prison treat offenders? Are good time credits awarded more easily? Are parole standards loosened?

What would an optimum system of intermediate punishments look like? Research is needed to identify and study the range of intermediate punishment programs that have been tried. We do not know how such programs would fit into a spectrum of alternatives primarily intended for that purpose. Studies are needed to document the experiences of these programs, establish the kinds of offenders they most appropriately serve, assess their costs and political feasibility, and evaluate their immediate and long-range effects on criminal behavior. This kind of information is necessary to develop a model of effective and efficient sanctions that would be feasible within the financial and political constraints faced by most states.

Who uses the PSI, and for what purposes? How could it be better designed? PSIs take vast resources to prepare. We believe that a more comprehensive study of the PSI is needed to establish exactly what information the PSI typically contains, where the information comes from, how accurate it is, and what kinds of skills are required to prepare it effectively. Who actually uses it, besides the judges? How does it influence prosecutors' filing decisions, prison classification, parole decisions, probation supervision, and so on? All this information is vitally needed to make PSIs meet the demands placed on them, to make their preparation cost-efficient, and to improve their quality. We especially need to understand how the particular sentence recommended in the PSI influences (or fails to influence) the court's final disposition.

What do chief probation officers view as their most appropriate mission: surveillance/supervision or treatment/rehabilitation? Probation seems to be on the verge of "repackaging" itself to meet the public's demand for more rigorous, punitive, and intrusive restrictions on liberty. It is necessary to assess the support of those who operate probation agencies before policies are made. Interviews conducted in the present study suggest that the probation system has not reached consensus in terms of its desired mission. Ignoring this fact and moving forward to alter probation to satisfy outside pressures may well doom the effort from the outset.

How do the recidivism rates of felons sentenced to probation compare with those of "matched" offenders who were sentenced to prison? The study reported here tracked the behavior of felons sentenced to probation, and concluded that their recidivism rates were "high." But "high" is a relative term. To more fully understand how effective probation is for felons, we need to compare probationer recidivism rates with those of similar people who were sentenced differently, e.g., to prison. The authors of this report are currently pursuing this research issue under a National Institute of Justice grant. The research should enable us to address such critical questions as, Did prison aggravate or suppress offenders' subsequent criminality?

This study has shown that some traditional assumptions about probation, its clients, and its responsibilities no longer hold. It has also suggested that the task of breaking the vicious circle of prison overcrowding, overburdened probation agencies, and recidivism will be very difficult indeed. Nevertheless, the situation is becoming intolerable, and hard policy choices must soon be made. This report suggests some ways to improve the existing system, examines several available new alternatives, and discusses the financial, political, and social trade-offs they entail.

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We are particularly thankful to police, court, and probation officials in Los Angeles and Alameda counties, who opened their agencies and records to our inspection. Participating counties always run the risk of "looking bad" when research findings become known. These counties were willing to take that risk in hopes that the resulting research would help them and others to learn more about probation's effectiveness. We could not have asked for better cooperation.

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William Pannel, formerly of the California Board of Prison Terms, provided Rand with statewide sentencing data. James Rasmussen, of

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Several persons served in an advisory capacity. Stevens Clarke (University of North Carolina), Michael Caggiano (Rand), David Kanouse (Rand), and Mark Peterson (Rand) served as reviewers of the report and made insightful suggestions concerning the analysis, presentation, and conclusions. Allan Abrahamse (Rand) gave statistical advice in planning the multivariate analyses. Finally, we are grateful to Barbara Williams, Rand's Criminal Justice Program Director, for her assistance in administrative and substantive matters.

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I. INTRODUCTION

Probation usually claims public attention only when a probationer commits a particularly shocking or violent crime.¹ At that point, the public shouts about the laxity of the system, but their outrage soon subsides—because the public assumes that probation is a sentencing alternative only for “nondangerous” offenders. Over the last decade, however, that assumption has become less justified. In many states, including California, a significant portion of the probation population is made up of adults convicted of felony crimes (as opposed to misdemeanors).² These probationers have come to be called “felony probationers.”

The flood of convicted felons has overwhelmed the prisons of most states. Many states have taken stopgap measures, such as double- or triple-celling in established facilities, putting up “tent cities,” and converting other correctional facilities into secure prisons. All these measures take time and money, and in an era of severe budget difficulties, money may be more of a problem than time. Consequently, sentencing of criminals to probation is increasing, as the courts look to alternative forms of community sentencing to ease prison overcrowding.

When the prison population began to overwhelm existing facilities, probation and “split sentences” (a jail sentence followed by a term on probation) became the *de facto* dispositions for all misdemeanors. As prison overcrowding becomes a national crisis, the courts are being forced to use probation even more frequently.³ Many felons without prior criminal records are now sentenced to probation; prison space appears to be reserved mostly for repeaters. In 1980, 62 percent of all California Department of Corrections admissions were the result of either a probation (33 percent) or a parole (29 percent) revocation (*California Prisoners*, 1980).

¹The public response to the *parole* of felons, on the other hand, is often intense and well-publicized (the distinction between probation and parole is discussed in Sec. II).

²Felonies are punishable with death or by imprisonment in a state prison; misdemeanors are punishable by imprisonment in a county jail, by a fine, or by both. The Superior Court has original jurisdiction for felony cases; the Lower or Municipal Court has jurisdiction for misdemeanor and selected felony cases.

³This is not to suggest that fewer convicted offenders are being imprisoned. On the contrary, California courts sentenced 14 percent of those convicted in Superior Court to prison in 1970, and by 1983, this figure had increased to 35 percent (California Bureau of Criminal Statistics, 1984).

Using probation as a sentencing alternative for convicted felons raises some crucial questions. Conceptually and structurally, probation is intended for offenders who pose little threat to society and can, ideally, be rehabilitated through a productive, supervised life in the community. Recent budget cuts and the increased use of probation have forced probation staffs to take on greater caseloads, often at the cost of supervising probationers less carefully. Given its functional rationale and these circumstances, can probation accommodate more serious offenders, supervise them appropriately, and prevent them from threatening public safety? The most vital and fundamental question is whether traditional probation—based principally on the treatment/service role—should even be considered a legitimate sentencing alternative for convicted felons.

Understanding how well probation works for convicted felons is more than an interesting research question; it has become a compelling issue of public safety. In this report, we describe felony probation in California, examine its effectiveness, present the reasons why we believe it is not an effective—or appropriate—sentencing alternative for most felons, and suggest a form of intermediate punishment that we believe provides an appropriate (community-based) alternative to prison and traditional probation.

This study represents the first systematic research on felony probationers. It is based on data on individuals convicted of selected serious felonies in Superior Court in California, who would on that basis alone have been likely candidates for prison. It is important to note that our results cannot be used to assess the overall effectiveness of probation, because we are studying only one extreme of the probation population. This subset of felons comprises only about 35 percent of the adult probation population in California. But in focusing on this sample of felony probationers, we have addressed many issues and questions that are vital to understanding how effective probation is for relatively serious offenders, and thus how effective it is as an alternative to prison.

Although our study focuses on California, we believe its findings and conclusions have significance for other states as well. California has the largest probation system in the world, it was once regarded as the most innovative, and it has undergone perhaps the most drastic budget cuts. Consequently, most other states will find California's experiences with felony probation instructive.

In the next section, we define probation and present a brief history of it, including its present condition. We also outline the controversy over probation and the research questions it raises, and we describe our research strategy and the data we used to address those questions. Section III documents the recidivism behavior of a selected sample of

probationers and its implications for public safety. In Section IV, we analyze the factors that influence the prison/probation decision, look at how consistently they are applied, and describe recidivism among offenders who (based on our statistical model) have low, moderate, and high probabilities of imprisonment. Section V identifies the factors associated with recidivism and discusses the accuracy of our recidivism prediction models. (Our findings argue against using traditional probation as a sentencing alternative for most felons.) In Section VI, we present the rationale for using intermediate punishment, i.e., intensive community-based surveillance, as a sentencing alternative, describe several operational intensive supervision programs, and develop a sentencing process that would establish which sentencing alternative is appropriate for a given offender. We conclude in Section VII with the major policy and research recommendations of our study.

II. PROBATION: THE CONCEPT AND THE CONTROVERSY

As the public begins to realize that many probationers are serious criminals, felony probation will probably become the focus of a highly charged policy debate. In this section, we define probation and discuss how it works, how California's probation population is posing an increasingly serious threat to public safety, the research questions raised by the use of felony probation, and the data and research strategy we have used to study those questions.

WHAT IS PROBATION?

Probation is a criminal sanction in which the court releases convicted offenders, subject to imposed conditions. An offender is typically placed on probation after the court has suspended a jail or prison sentence. However, the court may also impose a split sentence, i.e., a specified jail term followed by a period of probation. (This should not be confused with *parole*, which is the conditional release of an offender after he has served a prison term. Probation is an *alternative* to a prison term.)

No offender has a specific right to a sentence of probation; however, the American Law Institute Model Code (1962) suggests that the court prescribe probation if the defendant does not pose a risk to society or need correctional supervision, and if the granting of probation would not underrate the seriousness of the crime.

The conditions of probation usually include supervision (surveillance, counseling, or other services) in the community by a probation officer. The American Bar Association's *Standards Relating to Probation* (1970) suggest that every probation sentence should stipulate the condition that the probationer lead a law-abiding life. However, the sentencing judge should be free to impose additional conditions tailored to the circumstances of the case.¹ If the offender violates the conditions of probation, the court may revoke that probation. During the revocation hearing, the court may impose the suspended sentence or simply establish that a violation has occurred. The latter is more likely when

¹While in the community, probationers can legally be denied certain civil rights by virtue of their criminal conviction. What rights are lost and for how long varies from jurisdiction to jurisdiction.

the offender has violated a technical condition of probation but has not been arrested or convicted of another crime.

The public has not readily accepted probation as a sentence for adult offenders, because probation runs counter to the idea of just deserts (i.e., retribution) and because adults have been held to be more accountable for their crimes than juveniles (Rothman, 1980). However, all the states, as well as the federal government, now have some form of probation for at least some categories of adult offenders. From its informal beginnings,² through its formal establishment by law, to its present status, probation has shown steady growth. Today it is by far the most frequently used sanction against criminals in this country; it is imposed in 60 to 80 percent of criminal court convictions (U.S. Comptroller General, 1976). During the past decade, probation caseloads swelled to unprecedented levels—over 1.5 million persons were under probationary supervision in the United States in 1983. This was more than three times the number of persons serving sentences in prisons in that year (Bureau of Justice Statistics, 1984), and the trend will almost certainly continue. Although entries to prison slowed down in 1983 (prison entries increased 6 percent in 1983, less than half the rate in 1982), probation “entrants” increased 11 percent nationwide.

CALIFORNIA'S PROBATION POPULATION

California uses probation as its primary sentence. In 1983, 80 percent of offenders convicted in municipal courts and 61 percent of those convicted in Superior Court were sentenced to probation (Bureau of Criminal Statistics, 1984).³ As Table 2.1 shows, the probation caseload in 1983 consisted of 243,791 juveniles and adults, an increase of 15 percent over 1975. This means that 1 out of every 83 Californians, or 1.2 percent of the total population between the ages of 9 and 65, is

²Probation as now practiced is traced to the volunteer work of John Augustus, a Boston shoemaker who, in 1841, began to bail out convicted offenders, obtain their release, and then present the sentencing court with a report on their progress toward reformation. The volunteer work of Augustus and others led to the passage of the first probation law in Massachusetts in 1878. The practice gathered momentum with the creation of the juvenile court in Chicago in 1899; and by 1900, six states had passed statutes recognizing probation. By 1940, each state had some probationary procedure for juvenile offenders, but such procedures were not available for adult offenders until the 1960s.

³More than half of the Superior Court probation sentences include some jail time. The court may also require placement in a work camp or farm, or other public work; restitution for damages or injury; payment of a fine; payment of child support; payment of probation costs in an amount not exceeding the actual average cost of such services; and/or the maintenance of employment for the purpose of meeting court-ordered payments.

Table 2.1
PROBATIONERS IN CALIFORNIA IN 1975 AND 1983

Probationers	1975	1983	% Change
Adults sentenced in Superior Court	63,753	72,152	+13
Adults sentenced in Lower Court	89,387	104,403	+17
Total adults	153,140	176,555	+15
Adults and juveniles	211,103	243,791	+15

SOURCE: California Bureau of Criminal Statistics, 1984.

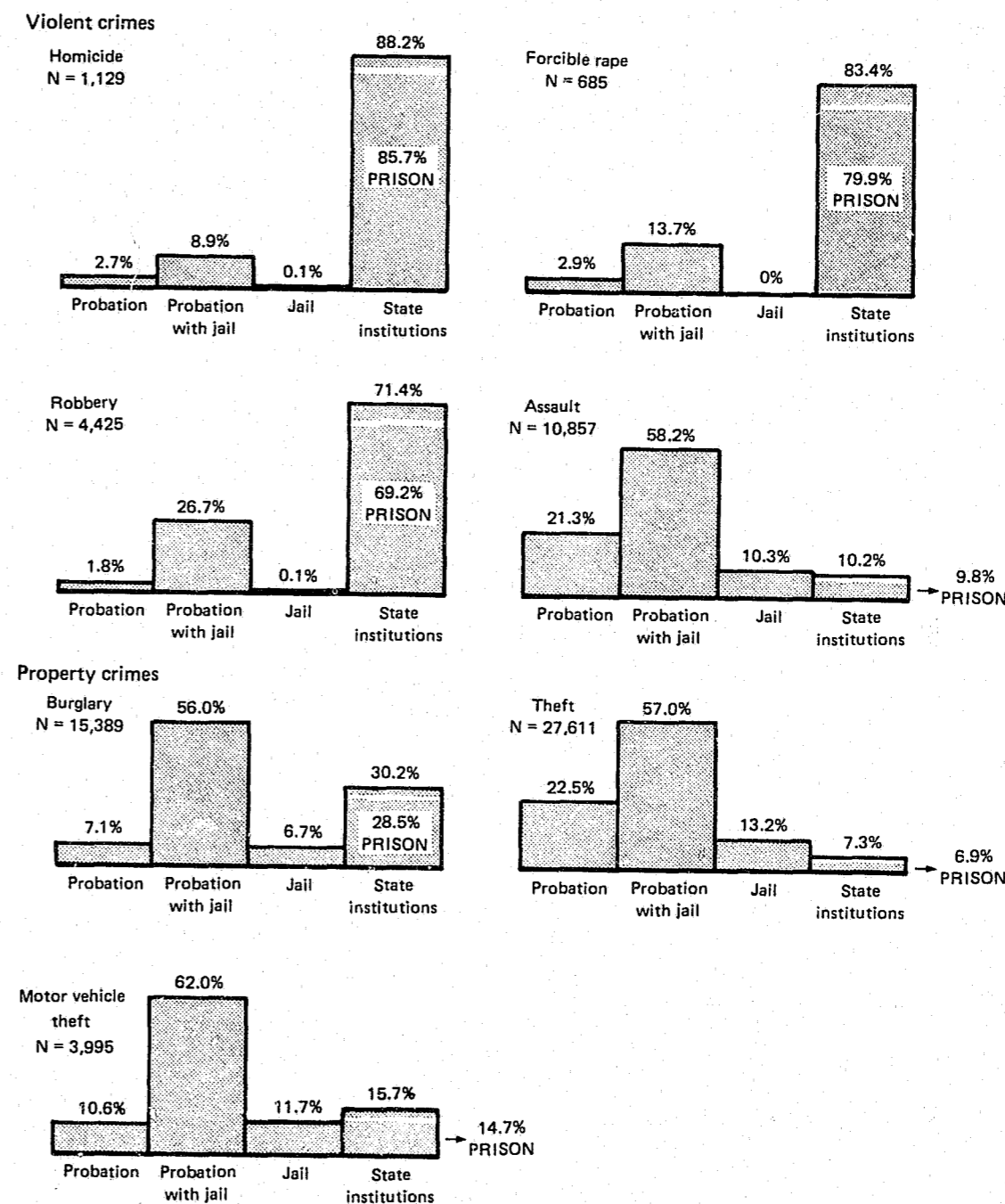
currently a convict on probation. More significantly, the number of adults sentenced to probation from Superior Court has increased by almost 13 percent during the same period.

It is our contention that the heavier use of probation, particularly for adults sentenced from California's Superior Courts, has imposed an increasingly serious threat to public safety, one that is more alarming than a 13 percent increase implies. There is some evidence that the adult offenders who now receive probation have committed more serious crimes than those who have received probation in the past. And while the number of felony probationers is increasing, significantly fewer resources are being devoted to their supervision.

More Serious Offenders. Figure 2.1 indicates the proportions of persons convicted of serious crimes in California who receive probation sentences. For example, in 1983, 17 percent of the convicted rapists were placed on probation, as were almost 30 percent of those convicted of robbery and 80 percent of those convicted of assault.

Figure 2.2 presents the probation population's arrest and conviction crimes. Of the seven most serious offenses, only assault decreased its percentage of the probation population between 1975 and 1983. In 1975, 54 percent of the probationers were originally arrested for homicide, rape, robbery, assault, burglary, or theft and could thus be considered serious threats to public safety. By 1983, 61 percent of probationers were such serious criminals.

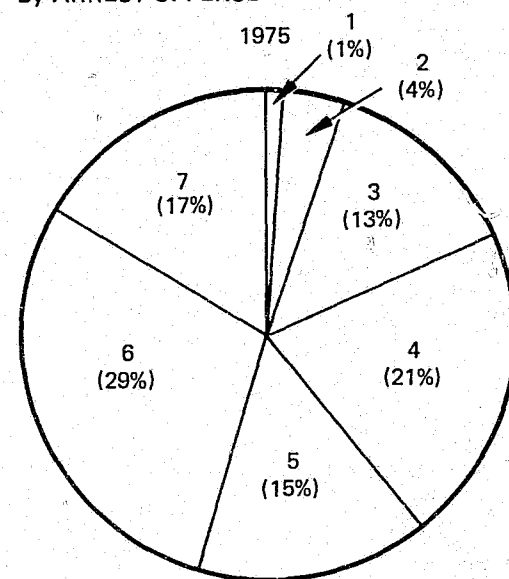
Comparisons of this type cannot fully indicate the level of risk that probationers now pose to the public. Some probation officials say that the risk from probationers has increased because probationers today are more likely to be drug-involved, to have committed crimes at an earlier age, to be more violent, and to be gang-affiliated. The overloading of court calendars has created increasing pressure to plea-bargain cases, resulting in reduced conviction charges that sometimes bear slight resemblance to the original arrest crime. The defendant pleads



SOURCE: *Adult Felony Arrest Dispositions in California*, California Department of Justice, 1984.

Fig. 2.1—Adult felony arrestees convicted in California Lower and Superior courts, 1983

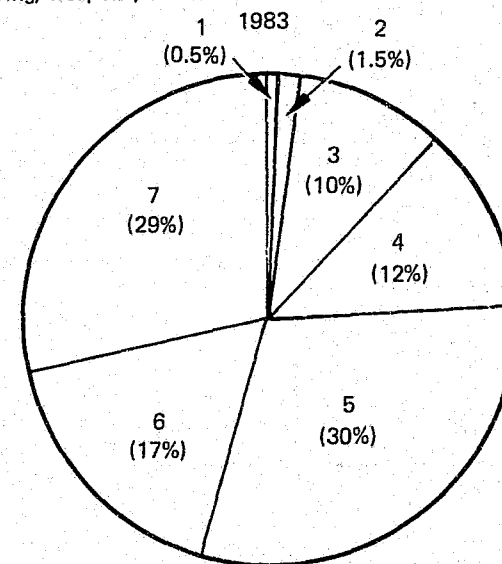
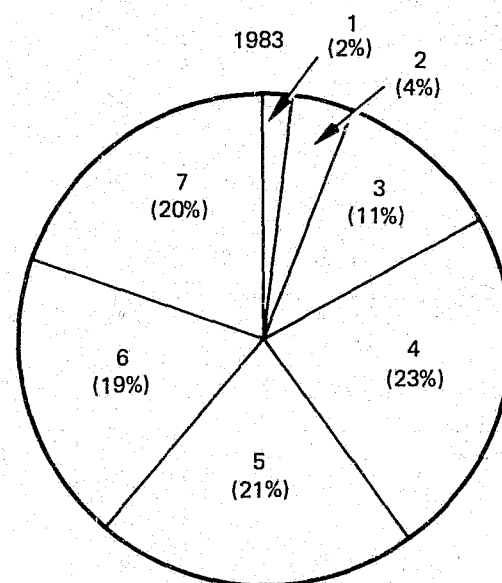
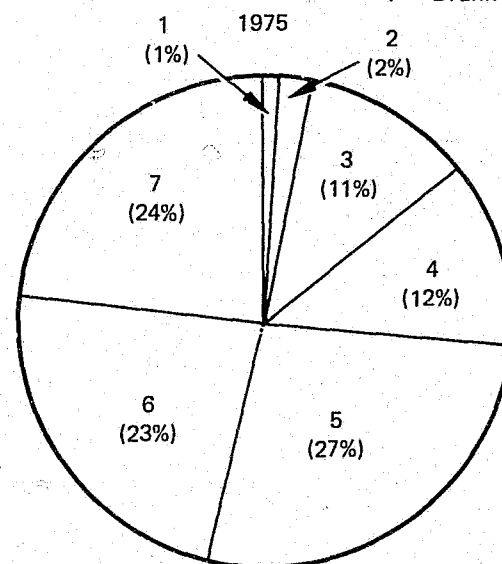
By ARREST OFFENSE



Key:

- 1 = Homicide and rape
- 2 = Robbery
- 3 = Assault
- 4 = Burglary
- 5 = Theft, forgery, auto theft
- 6 = Drug sale and possession
- 7 = Drunk driving, weapons, other

By CONVICTION OFFENSE



SOURCE: California Bureau of Criminal Statistics, 1984.

Fig. 2.2—Adults placed on probation in California, 1975 and 1983

guilty to a reduced charge, often a misdemeanor, and is placed on probation.

Other probation officials believe that probation populations may pose less of a threat today because the courts are incarcerating a greater portion of convicted offenders. This debate is difficult to resolve. There is little debate, however, about whether probationers are more serious offenders today than they were when adult probation first began. In 1930, 90 percent of the adult probationers in New York had been convicted of misdemeanors, nearly half of them for nonsupport or petty larceny (New York State Department of Corrections, 1934). As the numbers in Fig. 2.2 show, the proportion of probationers arrested for serious crimes is rising, but it must be noted that the total number of probationers increased between 1975 and 1983, so the number of those arrested for the most serious offenses would have risen even if the mix had remained at its 1975 levels.

Resources. Financial support for probation agencies has not kept pace with the growing number of probationers. Indeed, since the mid-1970s, probation has fallen on hard times. The mood of the country has grown more punitive, and the public has increasingly demanded consistent, harsher sentencing, not "lenient" probation. Consequently, California policymakers have devoted more of their attention and their criminal justice budgets to prisons and jails.⁴ In California, probation presently supervises two-thirds of all correctional clients, yet it receives only about one-fourth of the financial resources allocated to corrections.

Table 2.2 shows the expenditures for probation and other parts of the criminal justice system in California. While total expenditures have increased since 1975—in real terms, by 30 percent—expenditures for probation have actually declined by more than 10 percent.⁵ Yet the total probation caseload expanded by more than 32,000. In 1975, \$2,060 was spent on each probationer annually; by 1983, probation was spending, in real terms, \$1,600 per probationer, a decrease of almost 25 percent.

As Table 2.3 shows, the reduced probation budgets are now buying even fewer probation officers: Almost 30 percent fewer officers now

⁴This trend is not confined to California. A recent nationwide study concluded that during fiscal cutbacks, "Probation agencies have had greater budgetary problems than any other part of the justice system" (Fitzharris, 1981).

⁵Each California county is responsible for funding its probation agency. Supervision fees are deposited in the county general fund and are not retained by the agency. A County Justice Subvention Program, administered by the Youth Authority, provides state funds for locally proposed programs, which can include added probation services. The Board of Corrections allocates state funds for probation officer training programs in participating counties.

Table 2.2
EXPENDITURES FOR CRIMINAL JUSTICE IN CALIFORNIA,
FISCAL YEARS 1974-75 AND 1982-83
(thousands of 1982 dollars)

Item	1974-75		1982-83		
	Amount	% of Total	Amount	% of Total	% Change
Probation	434,640	10	390,493	8	-10
Jails, prisons, and youth authority	803,719	20	1,074,450	20	+34
State and local police, courts, and prosecution	2,913,058	70	3,890,254	72	+34
Total criminal justice	4,151,417	100	5,355,197	100	+30

SOURCE: *Crime and Delinquency in California*, California Bureau of Criminal Statistics, 1983. Adjusted with the California Consumer Price Index.

Table 2.3
PERSONNEL IN CALIFORNIA PROBATION AND CORRECTIONS AGENCIES,
1975 AND 1983

Agency	1975	1983	% Change
Probation agencies	7,455	5,299	-29
Department of Corrections	8,360	10,136	+21

SOURCE: *Crime and Delinquency in California*, California Bureau of Criminal Statistics, 1982.

manage 15 percent more probationers than they did in 1975. In 1975, there were an average of 28 probationers per officer; by 1983, the figure had grown to 46 probationers per officer. But this figure does not represent an average *caseload*, since many officers do not directly supervise probationers. (A sizable staff is needed to collect information for presentence investigation reports, for example.) In many counties, the average caseload is between 150 and 300 offenders per officer.⁶ These officers do not have enough time to meet even once a week with

⁶Fifty probationers used to be regarded as the maximum number for one officer to supervise (American Correctional Association, 1977). However, the current trend is not to suggest an optimum caseload, but rather, to determine appropriate caseload size within a context of the types of probationers being supervised. For example, probation officers may not be able to adequately supervise more than 20 "maximum-supervision" cases; "medium caseloads" might consist of 50 offenders; and "low-supervision caseloads" might contain as many as 200 offenders.

probationers, to monitor their progress, or to complete the required paperwork. Often they can do no more than hand their charges a stack of postcards to be mailed in at specified intervals. In these instances, probation actually means freedom, with few constraints and little supervision.

Today's probationers, who appear to pose a more serious threat to public safety, however, should have more supervision, not less. If they cannot be adequately supervised, the threat to public safety increases. Moreover, as the number of probationers has grown, their characteristics have become more diverse. Not only is it necessary to provide more personnel and services, but the types of expertise and the kinds of services needed are likewise more diversified.

Probation officials themselves are perhaps best able to understand the increased threat to public safety. Thomas Callahan, of the American Probation-Parole Association, observed about California probation:

It appears to be time to stop perpetuating the myth that probationers are being supervised . . . [and] admit that caseloads have increased beyond a manageable level . . . [probation] is at a dangerous level . . . we are courting with disaster. . . . It doesn't make sense to arrest someone, to go through the court process, and then place them on probation where they're never watched. The only person to have benefited from all this is the criminal. It's a good time to be on probation, sad to say.⁷

RESEARCH QUESTIONS RAISED BY THE PROBATION CONTROVERSY

Although its supporters have often been those with primarily idealistic interests, probation has always had practical aims. It has been more concerned with crime reduction than with retribution or deserved punishment. This is one reason for the public's reluctance to accept adult probation. Probation seeks to reduce criminality by reforming

⁷*Los Angeles Times*, July 3, 1983. California probation officials recognize these difficulties and have taken positive steps to structure probation so that it deals more effectively with the high-risk probationer. In recent years, 21 California counties have implemented a Probation Model Case Classification and Management System, which classifies each probationer according to his propensity for further criminal or rule-violation behavior. Persons with high predicted failure rates receive maximum supervision, i.e., at least one probation-officer contact per week. Research in Orange and San Bernardino counties, as well as in states other than California, has shown that such classification schemes, coupled with intensive supervision, can reduce recidivism. In Wisconsin, where this type of system was developed, high-risk probationers committed 37 percent fewer felonies, and probation revocations declined 48 percent after full implementation of the program (Baird et al., 1979).

offenders through community supervision and to prevent crime by referring violators back to the court. In pursuing these aims, probation depends on a critical chain of prediction, counseling, service, and surveillance. If any of these links are weak, public safety may be jeopardized.

Probation allows the system to individualize justice and rehabilitate offenders rather than seek retribution. It allows probationers to earn money to pay fines or make restitution to victims and to maintain jobs, families, and community ties. It facilitates the plea-bargaining process and provides a way of balancing divergent views on "get tough" legislation concerning crime and criminals. Its most practical aspect is that it saves money. Fitzharris (1979) reports that the cost of incarceration ranges from \$2,378 to \$16,790 per offender per year across the nation, compared with only \$164 to \$789 per probationer. Even intensive probation supervision programs are estimated to cost only \$2,000 to \$5,000 per probationer per year (Baird, 1984).

Most critics of probation are fighting a rearguard action. Whatever the merit of their arguments, probation has, de facto, increasingly become the alternative of choice. The jails and prisons simply cannot accommodate all of the convicted offenders. And this overcrowding has been created in part by those who argue for stiffer sentences for violent offenders. Arguments that probation officers in some jurisdictions are too overloaded to provide adequate supervision are largely true. However, probation agencies are not likely to get a larger share of the criminal justice budget while the public is implicitly demanding that more money be spent on harsher alternatives (i.e., prisons and jails).

The probation debate seems to have reached an impasse. Supporters argue that probation can reduce crime by reforming criminals and can reduce costs and prison overcrowding by community supervision of low-risk offenders. Opponents demand harsher sentencing, criticize excessive judicial discretion, and challenge the system's ability to predict or alter criminal behavior by any means. Despite their differences, both sides have spotlighted the central questions for research:

- What criteria are used by the courts to determine which offenders convicted of particular crime types should be granted probation and which should be imprisoned?
- How well do convicted felons do on probation? How many are rearrested, reconvicted, and reimprisoned?
- What characteristics are associated with probationer recidivism?

- How well can statistical models predict which probationers will recidivate and which will not?
- If the answers to these questions indicate that probation is not an appropriate sentencing alternative for most felons, are workable alternatives available?

Unless and until research can provide answers to these questions, the debate over probation's efficacy and cost effectiveness will remain ideological.

RESEARCH DATA AND STRATEGY OF THIS STUDY

Answers to these questions must be based on data on a large sample of offenders who were convicted of felonies in Superior Court during the same time period, some of whom received prison sentences and some of whom were placed on probation. Those data must include extensive information about the offenders' criminal, personal, and socioeconomic characteristics, as well as about the behavior of a subsample of probationers while in the community.

Statewide Data

Since 1978, the California Board of Prison Terms (CBPT) has collected detailed information on every person sentenced to California state prisons. As part of a special 1980 research project, the CBPT collected the same detailed information for a sample of adult males in 17 California counties who were sentenced to probation after being convicted in Superior Court of particular crimes. From these two files, Rand researchers selected a sample of males convicted of robbery, assault, burglary, theft, forgery, and drug offenses. The 17 counties are among the most heavily populated in California and account for approximately 80 percent of the state's felony convictions. The six crimes were selected because, by law, people convicted of them may be sentenced to either prison or probation.

In California, the probability of imprisonment differs among counties and among crime types. The original CBPT files contained information on all prisoners for our selected offense/county combinations, but only on a nonrandom subset of probationers. Thus they could not provide us with an accurate probability of a convicted offender receiving a prison sentence. We were, however, able to get estimates of the probability of imprisonment from the Offender Based Transaction

System (OBTS) maintained by the California Bureau of Criminal Statistics.⁸

Using the OBTS data, we formed two ratios for each county/offense combination. The first was the ratio of prisoners in the OBTS file to prisoners in the CBPT prisoner file; the second was the ratio of probationers in the OBTS file to probationers in the CBPT probation file. We then assigned these ratios as weights to our selected prisoners and probationers, respectively, within the county/offense combination. In some counties, the number of CBPT probationers was small, resulting in large weights for a few individuals. Because we believed that these weights would bias the results, we truncated all weights over four to a value of four. The resulting analysis file, the statewide database, contains data on approximately 16,500 males convicted in Superior Court.

For each convicted offender, the CBPT file records 235 pieces of information, including the following:

- *Personal characteristics:* age, race, sex, employment, juvenile and adult criminal history, drug and alcohol use.
- *Important aspects of the case:* number of charges, number of co-defendants, weapon used, injury inflicted, number of victims, relationship to victims.
- *Details of the court handling of the case and related case aspects:* public or private attorney, whether defendant obtained pretrial release, whether the case was settled through trial or plea bargain.
- *Final outcome:* conviction charges and type and length of sentence.

Appendix A contains the complete list of data elements.

All analyses of the statewide data were performed on the weighted file, within each of the six major offense classes. Table 2.4 presents the final weighted database by county, offense, and sentence. Appendix B describes the distribution of selected characteristics of the final statewide data.

The Los Angeles and Alameda County Recidivism Subsample

To answer questions about felony probation's effect on public safety and the possibility of improving the prison/probation decision, we needed recidivism information. We collected this information for a

⁸The OBTS gathers information on all felons arrested in California and tracks them through to final disposition. For a full description of the OBTS, see *Adult Felony Arrest Dispositions in California*, Bureau of Criminal Statistics, 1983.

Table 2.4

CONVICTED OFFENDERS IN STATEWIDE DATABASE BY COUNTY, OFFENSE, AND SENTENCE, 1980^a

Item	Number of Offenders
County	
Alameda	1,240
Fresno	281
Kern	419
Los Angeles	6,315
Monterey	284
Orange	1,560
Riverside	361
Sacramento	669
San Bernardino	601
Santa Clara	1,043
San Diego	1,392
San Francisco	1,114
San Joaquin	358
San Mateo	334
Sonoma	145
Tulare	126
Ventura	304
Conviction offense	
Robbery	2,710
Assault	1,262
Burglary	5,925
Larceny/auto theft/ receiving stolen goods	4,431
Forgery	584
Drug possession/sale	1,634
Sentence	
Prison	5,768
Probation ^b	10,778
Total	16,546

^aNumbers are weighted as described in the text.

^bFor 88 percent of the sample, probation included a jail sentence.

selected these counties because they had enough probationers to permit stratification by offense type. These counties could also provide good follow-up data on recidivism and were very cooperative in doing so.⁹

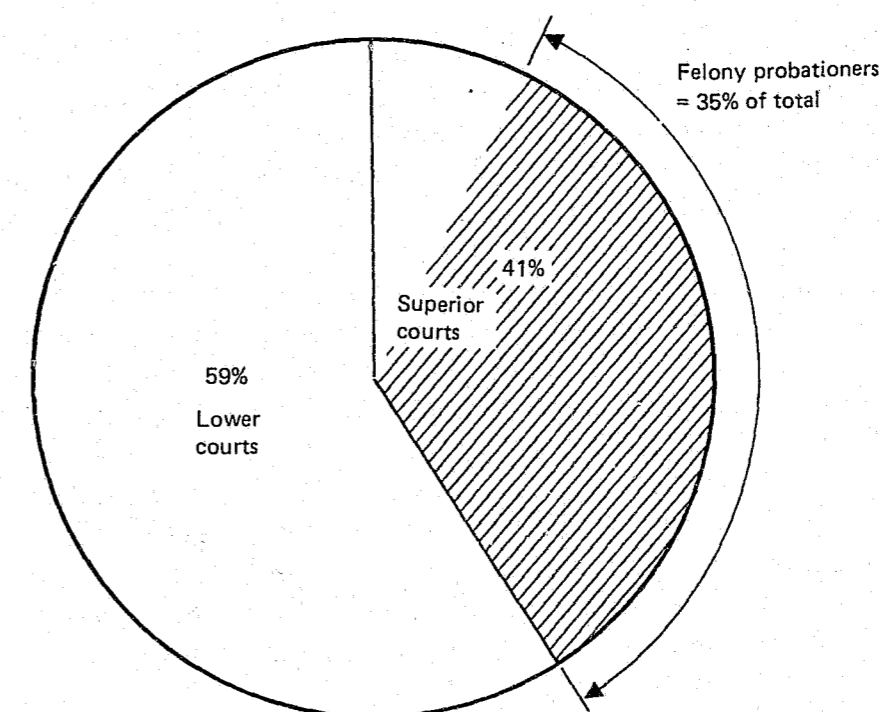
Together, these two counties supervised 43 percent of all adults granted probation (in both Lower and Superior Court) in California in 1983 (35 percent from Los Angeles and 8 percent from Alameda). However, these counties are probably not representative of most other California counties. They have larger adult caseloads—Los Angeles averaged 375 in 1984, and Alameda averaged about 150¹⁰—and their probation populations are larger than most—Los Angeles has the largest probation population in the state by far. Also, they have greater fiscal pressures, court congestion, and jail overcrowding. Thus, our recidivism results should not be generalized to all adult probationers. Counties with less serious offenders in their probation populations or with more resources might have lower recidivism rates.

In addition, we are not assessing probation's overall effectiveness. We are studying only adult males convicted of six felony crime types, a population that represents only about 35 percent of the adult probationers in California in 1983 (see Fig. 2.3). The characteristics of felony probationers are not necessarily those of probationers in general.

We were not able to include in our subsample every probationer in Alameda and Los Angeles counties for whom data were available—there were simply too many. We therefore devised the following sampling scheme: For Alameda County, we selected every probationer for whom data were available; for Los Angeles, we selected all probationers who were convicted of drug offenses, a random sample of approximately half of those convicted of violent crimes, and approximately one-fifth of those convicted of property crimes. We weighted the property and violent offenders in Los Angeles County by the reciprocal of their sampling fraction to approximate all Los Angeles offenders for whom data were available. Table 2.5 shows the number of probationers in the weighted subsample, by county and conviction crime. The distribution of crime types in the subsample reflects the distribution in the overall statewide data: A majority are property offenders; substantially fewer are violent and drug offenders (see Table 2.4).

⁹Regression models of the decision to imprison that we developed using all 17 counties (see Sec. IV) were applied to Alameda and Los Angeles offenders only. Model R^2 values for the two counties combined were virtually the same as those for the entire statewide database.

¹⁰A survey conducted by the Orange County Probation Department in 1984 revealed the following average adult caseloads: Fresno County, 250; Monterey County, 160; Orange County, 84; Riverside County, 79; Sacramento County, 120; San Diego County, 133; San Francisco County, 150.



SOURCE: California Bureau of Criminal Statistics, 1984.

NOTE: "Felony Probationers" are adults convicted of assault, robbery, burglary, theft, forgery, or drugs in Superior Court and placed on probation.

Fig. 2.3—Proportion of California's adult probation population on felony probation

Table 2.5
PROBATIONERS IN THE RAND SUBSAMPLE,
BY COUNTY AND CONVICTION CRIME

Original Conviction Crime	Alameda County	Los Angeles County	All Offenders Combined	
			Number	%
Drug sale/possession	33	117	150	9
Burglary and receiving stolen property; auto theft	142	991	1,133	68
Robbery and aggravated assault	31	358	389	23
Total	206	1,466	1,672	100

Eighty-eight percent of the probation subsample received jail time as part of their probation sentence. The average length of jail sentence imposed (calculated only for persons with jail time) was 7.1 months for drug offenders, 7.4 months for property offenders, and 8.8 months for violent offenders (averaging about 8 months for all offenders combined).

We obtained recidivism data for the Los Angeles County probationers from state rap sheets. For the Alameda probationers, we used local rap sheets from the Alameda County Offender System. The difference in sources reflected the difference in counties. Los Angeles has more than 50 police departments, each maintaining separate record-keeping systems. Consequently, we believed that we could get the best recidivism data on Los Angeles County probationers from statewide rap sheets. In contrast, Alameda County probation and court officials believed that we could obtain the most accurate recidivism data on their probationers from CORPUS, a local computerized database of offender information. These officials were confident that all jurisdictions recorded their arrests in this system, but less confident about their diligence in forwarding the same information to the statewide system.

Based on these data, we coded arrest and conviction information for each probationer from the time he was granted probation in 1980 to May 1, 1983 (when the data were sent to Rand)—a maximum follow-up period of 40 months. However, since most of our probationers spent time in jail as a condition of probation, we subtracted their jail sentences from the total follow-up period. Also, probationers were sentenced throughout 1980. Thus, on the average, we tracked people for about 31 months.¹¹

In both Los Angeles and Alameda counties, over 80 percent of our sample received court-imposed probation sentences of more than 3 years—the most common probation sentence in both counties was 36 months.¹² Since our follow-up period averaged 31 months, we are confident that nearly all of the offenders we tracked were formally on probation status during the entire follow-up.

To calculate an offender's recidivism rate, we first counted all arrests for which no charges were filed. For each arrest that resulted in an officially filed charge (up to 15),¹³ we recorded the date of filing,

¹¹For drug offenders, the follow up period averaged 32 months; for property offenders, 30 months; for violent offenders, 29 months.

¹²California felony probation terms are limited to the maximum possible period of imprisonment or, if the maximum is less than 5 years, to a period not to exceed 5 years.

¹³Only eight of the probationers in the originally coded (i.e., unweighted) sample had 15 or more charges filed during the follow-up period.

type of charge filed, final disposition (e.g., guilty, dismissed), and sentence (e.g., probation, jail, prison).

The Research Strategy

We performed several types of statistical analyses, including simple cross-tabulations, factor analysis, and regression analyses. These analyses permitted us to:

- Identify the legal and offender characteristics most strongly associated with being sentenced to prison.
- Discover how our statistically predicted sentences correspond with actual sentences.
- Establish the nature and rates of recidivism for different types of offenders and for different probabilities of imprisonment.
- Identify the legal and offender characteristics most strongly associated with recidivism.
- Assess how accurately statistical models based on these characteristics are in predicting which probationers will recidivate and which will not.
- Identify the proportion of those sentenced to prison who would have had a 75 percent or greater chance of succeeding on probation.
- Develop sentencing grids to establish which offenders should be sentenced to prison, which should be placed on probation, and which should receive intermediate punishment.

We describe our analyses in the following sections. Section III presents our findings on the effects of felony probation on public safety.

III. RECIDIVISM AMONG FELONY PROBATIONERS IN LOS ANGELES AND ALAMEDA COUNTIES

To establish whether probation is an acceptable sentencing option for convicted felons, we must first look at the results. How many felony probationers "stay clean"? How many return to crime? Are there any patterns in their recidivism? How long does it take them to recidivate? What are the implications for public safety? To address these questions, we examined the interactions of our subsample of probationers with the police, the courts, and the corrections system while they were on probation.

Recidivism has no universally accepted meaning among criminal justice researchers. Different studies have defined it variously as a new arrest, a new conviction, or a new sentence of imprisonment, depending on the kinds of data they had available and their project goals. As a result, it is exceedingly difficult and complex to make comparisons among their results.¹

To provide a comprehensive picture, therefore, we report the rates for all three recidivism measures listed above, as well as filed charges and convictions for violent crimes.²

OVERALL RECIDIVISM RATES

Figure 3.1 shows the overall patterns of recidivism for each county separately and for the combined sample. These rates are high: 65 percent of the entire probation sample were arrested during the 40-month follow-up period, and 51 percent were formally charged and convicted. Moreover, our data suggest that their offenses constitute a real threat to public safety—18 percent were convicted of serious violent crimes.

For every measure except incarceration in prison, the Alameda recidivism rates were significantly higher than those for Los Angeles.³

¹Some probation studies have also defined recidivism as a technical violation of probation conditions, but we did not study this outcome because we had no information on it.

²Homicide, rape, aggravated assault, robbery, and weapons offenses.

³Significant at $p < .05$. These county-level differences may not reflect real differences in offender behavior, but rather differences in the information recorded in the two datasets, i.e., Alameda's data may be more complete. However, as shown in Section IV, Alameda County did have a higher percentage of moderate- and high-probability-of-imprisonment offenders placed on probation than did Los Angeles County.

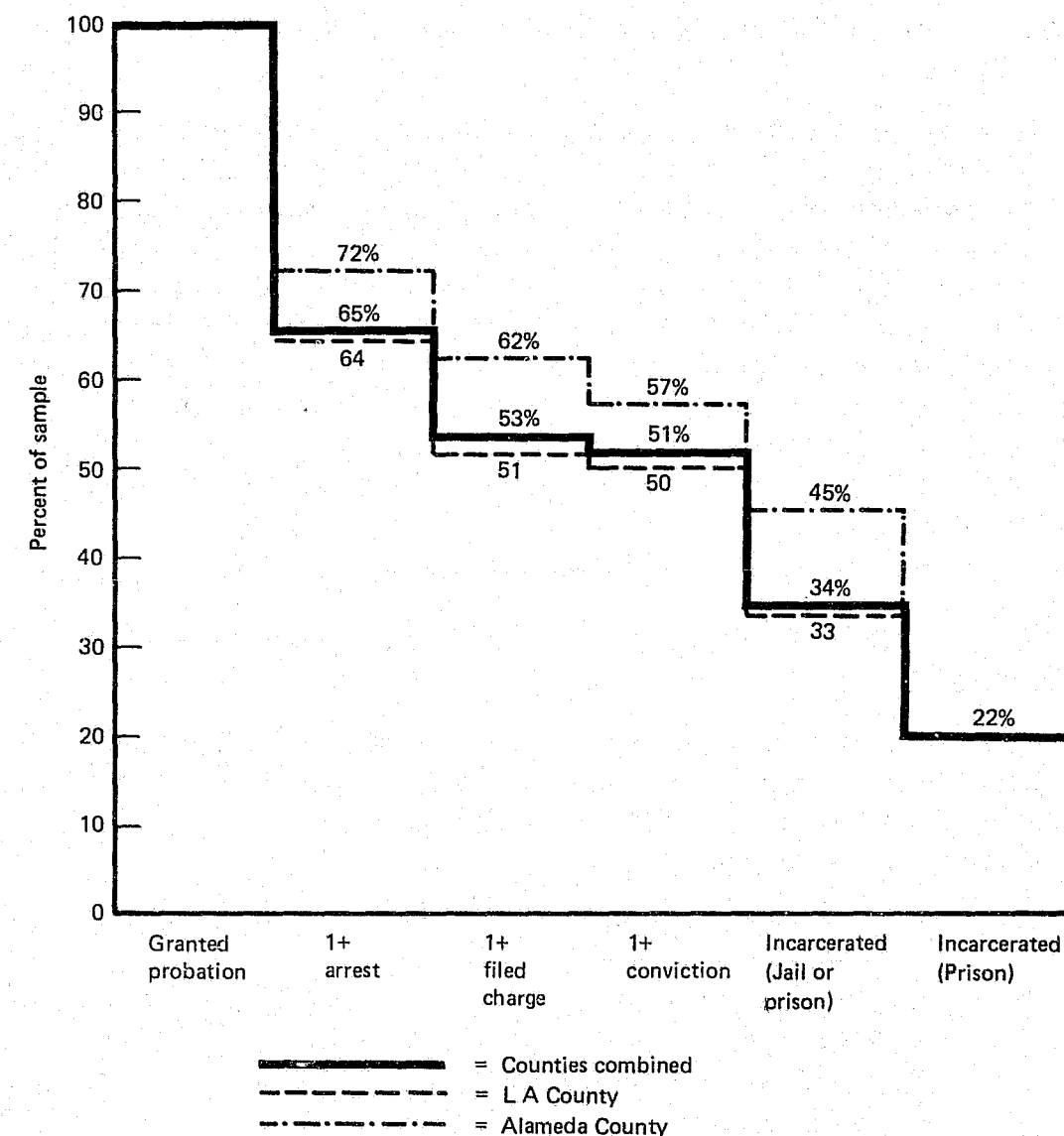


Fig. 3.1—Probation recidivism rates, by county (for a maximum follow-up period of 40 months)

RECIDIVISM RATES BY ORIGINAL CONVICTION OFFENSE

Identifying offenders who are more likely to recidivate is an important consideration in sentencing decisions. Figure 3.2 shows that offenders originally convicted of property crimes were the most likely to recidivate, followed (at some distance) by those who committed violent and drug offenses. For every measure except subsequent prison terms, property offenders' rates are higher than those of other types of violent offenders. Only 33 percent of property offenders had no subsequent arrests, while 43 and 40 percent of the drug and violent offenders managed to stay clean. We also found that 16 percent of property offenders had 5 or more arrests, compared with 12 percent of drug and personal offenders.

WHAT KINDS OF CRIMES DO FELONY PROBATIONERS COMMIT?

The recidivists in our sample were collectively charged with 2,608 separate crimes, involving over 150 different penal code violations, ranging from homicide to disturbing the peace. We categorized them into four offense classes:

1. *Drug offenses*, including possession, sale, transporting, and being under the influence.
2. *Property offenses*, including burglary, theft, forgery, fraud, and receiving stolen property.
3. *Violent offenses*, including homicide, rape, kidnap, assault, battery, weapons offenses, and robbery.
4. *Miscellaneous offenses*, including morals charges, driving under the influence of alcohol, disturbing the peace, failure to appear or to pay fines, etc.

Figure 3.3 shows the frequency of charges in each class and indicates the percentage of all the probationers having a filed charge of a specific type.

Charges were filed against 53 percent of the felony probationers; 19 percent had only one charge, 12 percent had two charges, and 22 percent had three or more charges. Property crimes accounted for 51 percent of all the charges filed. Robbery and violent crimes together accounted for 24 percent. Further, 32 percent of our entire study population experienced a filing for a property crime, 22 percent for a violent crime.

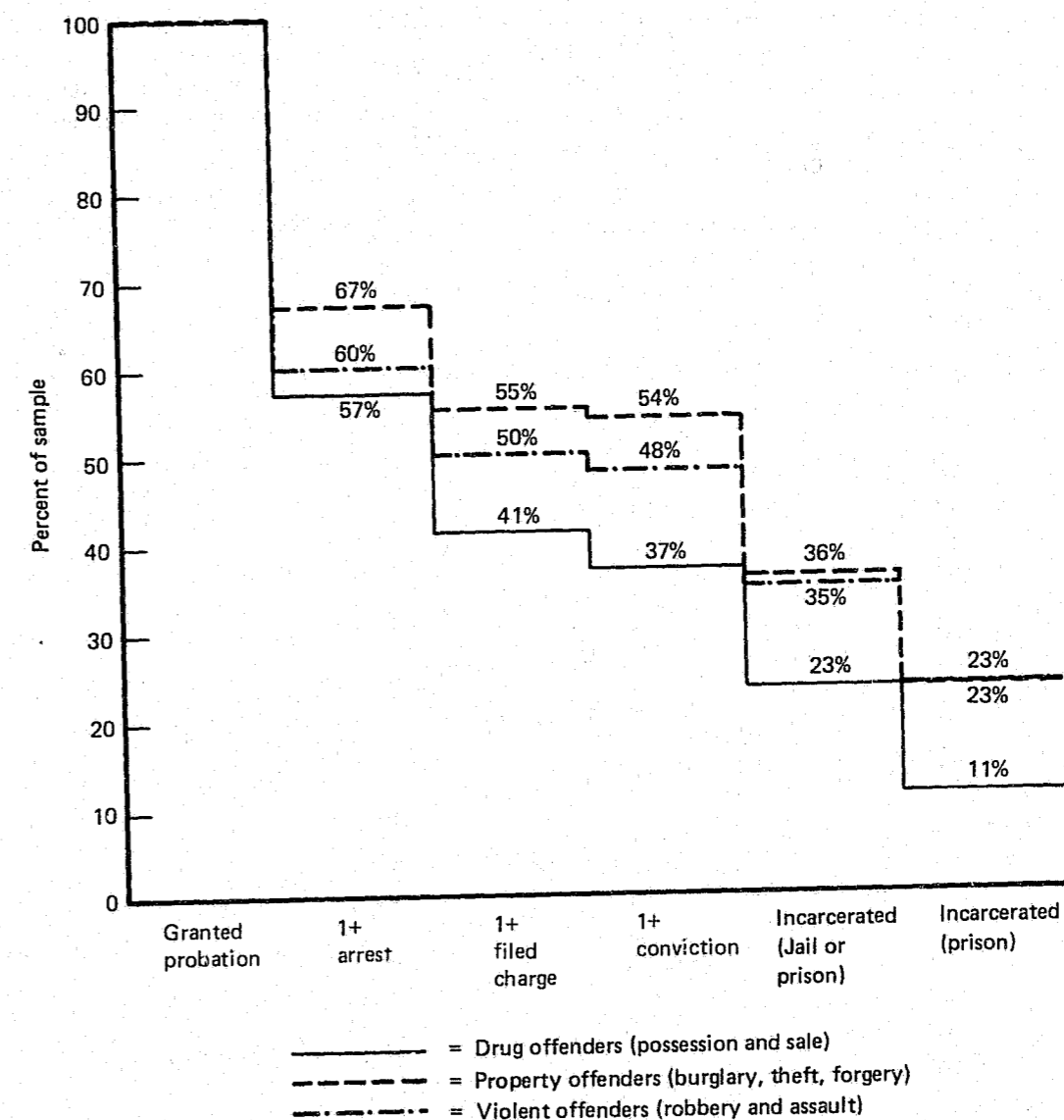
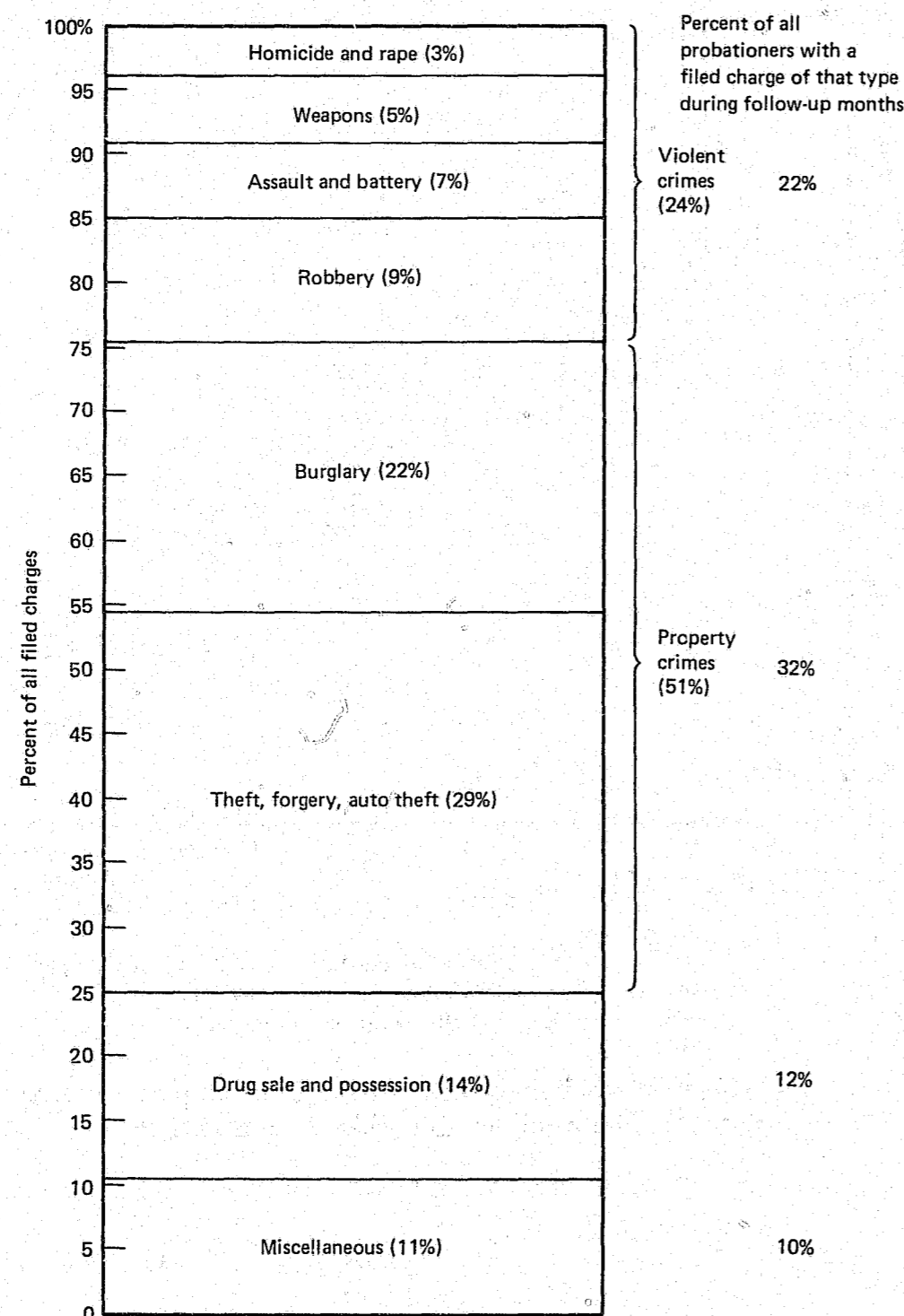


Fig. 3.2—Probation recidivism rates, by original conviction crime (for a maximum follow-up period of 40 months)



Note: Total criminal charges filed on our sample equals 2608.

Fig. 3.3—Types of charges filed on probationers during follow-up period

These figures suggest that recidivists in these two counties concentrate on serious property and violent crimes—the crimes that society considers most threatening. Consequently, knowing who commits those crimes could be important for sentencing decisions.

We examined the percentage of those with each type of original conviction crime who were subsequently convicted of a new crime, by crime type, and found that recidivists have a strong tendency to be reconvicted of the same kind of crime. Twenty-one percent of the drug offenders were convicted of new drug-related crimes; 38 percent of the property offenders were convicted of new property crimes; and 28 percent of the violent offenders were convicted of new violent crimes. Second, violent and property offenders were convicted of drug and miscellaneous crimes at fairly low rates. Third, drug offenders also had relatively low rates for miscellaneous and violent crimes. Finally, violent and property offenders “dabble” rather heavily in each other’s crime types. These patterns suggest that recidivism among felony probationers in these two counties involved more violent and property crime than other, less serious crimes.

AVERAGE TIME TO RECIDIVATE IN LOS ANGELES AND ALAMEDA COUNTIES

The time it takes for different kinds of offenders to recidivate also has important implications for felony probation’s effect on public safety. We calculated the time from probation grant (for those with no jail time) or estimated release from jail (for those with jail sentences) to the date of the first officially filed charge for each probationer.⁴ The median time to first *filed* charge (not first arrest) was 15 months for drug offenders, 5 months for property offenders, and 8 months for violent offenders.

Figure 3.4 charts the percentage of probationers who had an officially filed charge, by month, for each group of offenders. It appears that property and violent offenders recidivate more quickly than drug offenders. But after 27 months of probation, virtually none of the property or violent offenders who had not already had an arrest leading to filed charges subsequently had one. This pattern suggests that after about two years, property and violent offenders have either resumed their criminal careers or have “retired.”

In contrast, the recidivism rate for drug offenders grows nearly linearly, showing no sharp increases or signs of decreasing over time. At any five-month period after release on probation, the percentage of

⁴Our data did not include actual jail release dates, so we estimated that defendants served 50 percent of their imposed jail sentences.

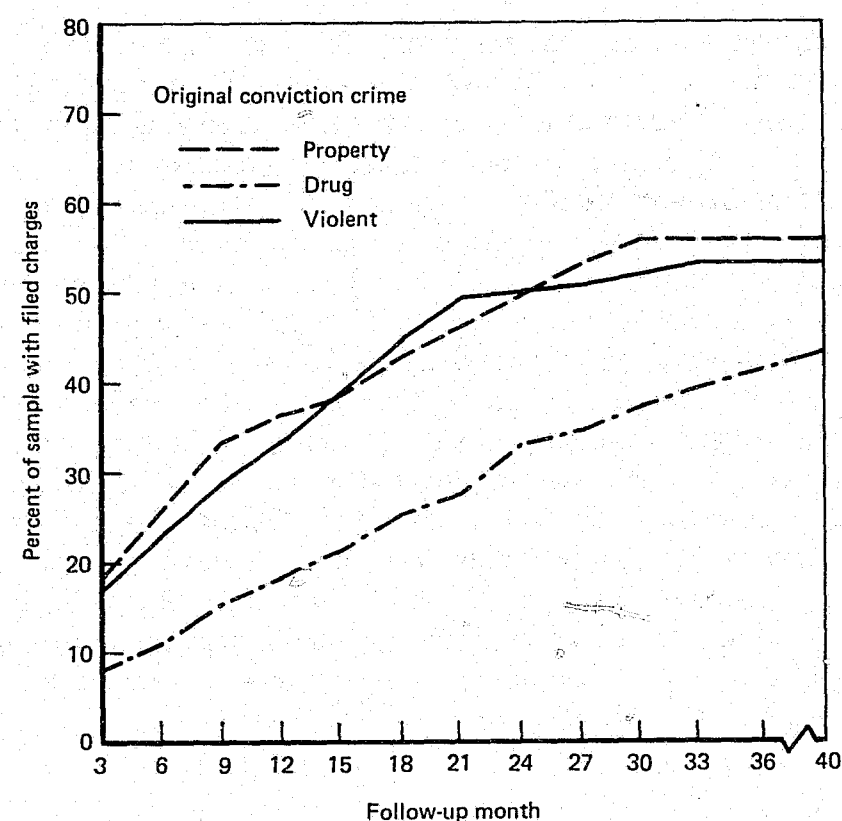


Fig. 3.4—Cumulative percentage of probationers with filed charges during follow-up period, by original conviction crime

drug offenders who have first charges filed against them is the same. Consequently, we do not know what the rate of recidivism for drug offenders would be beyond 40 months. Also, we cannot be sure that the recidivism rate for drug offenders would in the longer term remain lower than the rates for property and violent offenders.

IV. ASSESSING THE PRISON/PROBATION DECISION

In 1983, about one-third of all felons convicted in Superior Court in California were imprisoned; the rest were given fines, jail sentences, or probation. Yet felony probationers in Los Angeles and Alameda counties did not do well on probation, by any measure of recidivism. Consequently, we attempted to determine what factors caused some felons convicted in Superior Court to be given probation and others convicted of the same crime to be sent to prison.

Prior research provides little help. Although the literature on correlates of sentencing decisions, including probation, is extensive, it has several limitations. Like earlier probation studies, studies of sentencing correlates include all crimes. Thus, they shed little light on what distinguishes *felons* sent to prison from *felons* placed on probation. Two factors appear to be important in studies using different analytic methods and conducted in various jurisdictions: the seriousness of the offense and the prior criminal record of the offender.¹ But the crime of a convicted felon is serious by definition, and most felons have some kind of prior criminal record. Consequently, the prison/probation decision for serious offenders must be based on more complex considerations.

This section describes our attempt to establish which offender and legal characteristics were more likely to result in prison and which were more likely to result in probation for felons convicted in Superior Court of the same offense. It then examines how consistently these characteristics appear to have influenced the prison/probation decision, and the recidivism rates for probationers our regression analyses identified as having high, moderate, and low probabilities of imprisonment.

METHODOLOGY

Using the statewide data described in Sec. II, we performed multiple regression analyses to determine which factors were most strongly associated with being sentenced to prison. We distinguished between factors basic to the case, such as offender and offense characteristics, and what we call "process variables" (pretrial release, attorney type,

¹For a recent review of the correlates of sentencing decisions, see Blumstein (1983).

plea vs. trial). We further distinguished between those factors that show personal culpability or can be thought of as "hard facts" about the case (number of conviction counts, number of prior convictions and incarcerations, etc.) and the demographic data that describe the defendant (e.g., age, race).

We used a hierarchical approach to model building to avoid confusing the effects of process variables with the effects of the basic factors of the case. We first modeled the decision to imprison, using only the basic factors of the case.² Then, after we had determined which basic factors were apparently important in the decision to imprison, we added information about the process variables. To further refine our understanding of the effects of process variables on the decision to imprison, we also performed a probability-score analysis of those variables, identifying groups that had low, moderate, and high probabilities of going to prison and then establishing how much each process variable affected the prison/probation decision for each subgroup.

We chose not to analyze the full sample at once, because of the expense involved and the possibility of obtaining chance results. Instead, we developed candidate models based on analyses of two subsamples, and then tested the candidate models on the full sample. Our goal was to select a subset of the available 235 variables that were consistent across offense categories and that would predict the decision to imprison about as well as the full set of variables. Because the type of offense could influence the effect of other factors, we felt that separate analyses would generate better estimates of various factors' effects on the decision to imprison. Therefore, we performed all analyses separately for assault, robbery, burglary, theft, forgery, and drugs.

RESULTS

Basic Factors Influencing the Prison/Probation Decision

Table 4.1 presents the unstandardized parameter estimates for each of the six offenses. Positive coefficients are associated with going to prison; negative coefficients, with receiving probation. All of these results were produced from regression analyses. Thus, factors identified as statistically significant make an independent contribution to the

²In building our basic factors models, we began with variables measuring the defendant's personal culpability rather than group membership. For example, if "having two-to-four adult convictions" and "being between 26 and 30 years of age" were about equally correlated with the probability of imprisonment, we selected the conviction variable.

Table 4.1

BASIC FACTORS THAT ARE IMPORTANT IN THE DECISION TO IMPRISON

Basic Factors	Assault	Robbery	Burglary	Theft	Forgery	Drugs
Conviction counts						
2 counts	.35	.24	.39	.37	.26	.47
3+ counts	.50	.25	.46	.51	.29	.60
Prior criminal record						
1 prior adult conviction			.11			
2-4 prior adult convictions	.15	.15	.26	.11	.10	
5+ prior adult convictions	.18	.17	.39	.21	.27	.16
1 prior adult incarceration				.09		
On juvenile parole		.23	.22			
On adult parole	.19	.12	.27	.17	.28	
Victim characteristics						
Victim female						
Victim known or related	-.03 ^a				-.12	
Weapons and injury						
Armed with gun		.15				
Weapon used		.15	.14			
Victim seriously injured	.05	.06				
Drug use						
Under influence of drugs	.39					
Drug addict		.15		.20		.25
Race						
Black ^b	.13	.09	.04	.05	.02 ^a	.10
Hispanic ^b	.10	-.01 ^a	.04	-.01 ^a	.01 ^a	.15
Variance (R ²) ^c	.42	.38	.40	.30	.34	.38

NOTE: Blanks indicate that the variable was not included in the model; entries represent increases or decreases in the predicted probability of receiving a prison sentence.

^aEffects not significant at $p < .05$.

^bParameter estimates for being black and Hispanic are derived from a basic factors + process variables + black + Hispanic regression model of the decision to imprison.

^cR² values are from basic- plus process-factors models. The R² values do not include race effects; they increase at most .02 (over the basic- plus process-factors models) when race is added.

prison/probation decision, after all other factors in the model have been controlled.

Number and Type of Conviction Counts. For each offense, being convicted of two or more of the filed charges or "counts" was the factor most strongly associated with being imprisoned. Considering the probation populations analyzed in other studies, it is not surprising that this correlation has not often been noted before.³ As we have said, those studies looked at all probationers, and many of the studies were conducted before felony probation became common. Consequently, they would not have controlled for this variable. Nearly 40 percent of those imprisoned in 1980 had been convicted of at least two filed charges. This strongly suggests that prison space is being reserved for repeaters or for offenders who have demonstrated that their current crime was not simply an isolated event, but part of a repetitive pattern.

Prior Criminal Record. The number of prior adult convictions and being on probation or parole at the time of arrest were, in general, the next most important factors associated with an increased probability of being imprisoned. The effect of the number of prior convictions on the probability of prison differed for different crimes. The offender's prior criminal record was particularly important in the prison/probation decision for burglars. Having one or more adult convictions significantly increased the likelihood of a convicted burglar going to prison; in cases of assault, robbery, theft, and forgery, two or more convictions were needed; and five or more drug-offense convictions were required before the probability of prison increased significantly.

Defendant's Social and Economic Characteristics. Except for race, we found no effect for other demographic factors (e.g., age, education). But this result may be due in part to our modeling approach. We tried to use legal characteristics before extralegal characteristics in developing our basic factors models of the decision to imprison. Garber et al. (1983) cite agreement of most studies that "if the extralegal characteristics that affect case outcomes are controlled, their quantitative significance is small when compared with other factors" (i.e., seriousness of offense, prior record of defendant, ability to make bail, type of legal representation, and type of conviction). Nevertheless, when we controlled for all other basic factors (and for the process factors discussed below), being black or Hispanic still significantly

³Green (1961) found that the number of conviction counts, the number of prior felony convictions, and the seriousness of the offense all affected the sentence. Clarke et al. (1982) found a similar effect for the number of charges filed.

affected the probability of imprisonment for five of our six study crimes.⁴

Victim Characteristics. We found few effects for characteristics of the victim. A prior relationship between victim and defendant reduced the chances of imprisonment upon conviction for assault or forgery (although the size of the regression coefficient for assault is quite small). However, victim-defendant relationships may have a greater effect on the initial decision about which crime to charge than on the final sentence. We did not study this aspect of the criminal justice system.

Drug and Alcohol Use. Our data contained very detailed information on the defendants' alcohol and drug use and its contribution to the current crime. Alcohol and drug use might, in some instances, serve as mitigating circumstances. If a defendant can successfully argue that he was not in complete control of his faculties and in essence did not behave in a manner consistent with his normal behavior, the court might show leniency in passing sentence. On the other hand, if drug or alcohol use is seen as a repetitive pattern contributing to crime, sentencing might be more severe. We found no mitigating effects for being under the influence of alcohol or drugs at the time of the crime. However, if the defendant was a drug addict, he was more likely to go to prison if convicted of robbery, theft, or a drug offense. If he was convicted of an assault committed while under the influence of drugs, he was also more likely to go to prison.

Weapon Type and Victim Injury. More severe sentencing is expected for defendants who used firearms in the commission of a crime and who actually injured their victims. Defendants convicted of assault or robbery were more likely to go to prison if they used a gun or seriously injured their victim; those convicted of robbery or burglary they faced a higher likelihood of imprisonment if they used any weapon, regardless of type.

Once the above factors had been controlled for, we did not find significant effects for a number of factors that we had thought might be influential in the prison/probation decision, for example, defendant's age, education level, employment, income, occupation, marital status, or accomplices; extent of loss; or the victim's sex or vulnerability.

⁴Most of the race effects reflected increased probabilities of imprisonment for minorities, particularly blacks. This is consistent with the racial disparity in sentencing discovered by Petersilia (1983). Racial disparity in sentencing is an extremely important issue that the criminal justice system must address. It is the focus of a forthcoming Rand report to be entitled *Reexamining the Effects of Race on Imprisonment Decisions*.

Process Variables Influencing the Prison/Probation Decision

"Process" variables are factors such as whether the defendant represents himself or retains (or is assigned) an attorney, whether he remains in pretrial detention or gets out on bond or his own recognizance, and whether he goes to trial or negotiates a plea. To understand the effects of process variables on the probation/prison decision, we added them to the set of basic factors that were significant at $p < .05$ in the full sample, and regressed the decision to imprison on them. The results, presented in Table 4.2, show that for assault, robbery, burglary, and theft, all process variables are significant in the regression equations. For forgery, having a public defender and going to trial do not appear to make a difference. For drugs, having a public defender does not make a difference. The results across the offenses for significant coefficients show that having an attorney (as opposed to representing oneself), obtaining pretrial release, and being willing to accept drug treatment lessen the probability of going to prison. Going to trial, however, increases the chances of imprisonment.

The regression analysis described above did not provide definitive results on the effects of each process variable, because we added them as a "set" and their effects may differ for offenders with different probabilities of going to prison (i.e., whose crimes were of differing levels of seriousness). Therefore, we next examined the process variables separately for individuals who had different probabilities of going to

Table 4.2

PROCESS VARIABLES THAT ARE IMPORTANT IN THE DECISION TO IMPRISON

Process Variables	Assault	Robbery	Burglary	Theft	Forgery	Drugs
Public defender or court-appointed attorney ^a	-.06	-.06	-.05	-.03	.02 ^b	-.02 ^b
Private attorney ^a	-.16	-.31	-.12	-.10	-.27	-.08
Went to trial	+.32	+.12	+.15	+.26	+.02 ^b	+.16
Pretrial release	-.28	-.16	-.15	-.16	-.20	-.27
Willingness to accept drug treatment	-.16	-.11	-.17	-.15	-.17	-.21
Variance (R^2)	.42	.38	.40	.30	.34	.38

NOTE: Entries represent increments (+) or decrements (--) in the predicted probability of receiving a prison sentence. R^2 values are from basic- plus process-factors models.

^aReference category consists of "unknown," "none," "propria persona," and "represented, but attorney type unknown."

^bEffects not significant at $p < .05$.

prison, as indicated by their basic factors. Each person was assigned a probability score derived from the basic-factors regression model. We divided the resulting frequency distribution into thirds, representing low-, moderate-, and high-probability-of-imprisonment groups. In this manner, we held constant the effect of the basic factors as we examined the influence of each process variable. This analysis confirmed the regression analysis results:

- For each of the crimes and all three probability-of-imprisonment groups, *persons who obtained pretrial release were less likely to go to prison.*
- For each of the crimes, and all three probability-of-imprisonment groups, *people who had a private attorney were less likely to go to prison.*
- For all crimes except forgery, and for all three probability-of-imprisonment groups, if the defendant went to trial rather than plea-bargaining, he was considerably more likely to go to prison.
- For most crimes, and all three probability-of-imprisonment groups, defendants who said they were willing to accept drug treatment were less likely to go to prison.

CORRESPONDENCE BETWEEN STATISTICALLY PREDICTED SENTENCES AND ACTUAL SENTENCES

How did our statistically predicted sentences correspond with the sentences defendants actually received in court? The factors our regression analysis identified as important in the prison/probation decision (presented in Table 4.1) are quite consistent with those cited in California Penal Code Section 1202d, which states that persons are ineligible for probation who use a firearm during the commission of a violent crime; are armed while committing or when arrested for a felony, if previously convicted of a violent crime; inflict great bodily injury; have a second or subsequent conviction for specified major drug violations; or are convicted of a third or subsequent designated felony committed within a 10-year period.

Further, even when persons are legally eligible for probation, Judicial Council Rule 414, "Criteria Affecting Probation," states that persons should be imprisoned where there is a "high likelihood that if not imprisoned the defendant will be a danger to society." Factors to be used in reaching this determination include victim vulnerability, criminal sophistication, prior probation or parole performance, employment history, age, alcohol and drug abuse, family background and ties, and whether the record indicates a pattern of regular or increasingly serious

criminal conduct. Not surprisingly, there is a great deal of correspondence between these statutorially prescribed factors and the items our analysis showed were being used (the one exception being race).

Thus, it is interesting to see the correspondence between the sentence our model predicts for an individual offender and the sentence he actually received. This type of analysis enables us to evaluate how consistently the identified characteristics influence the prison/probation decision. Do all felons having those characteristics wind up in prison? Conversely, do all those without them get probation?

For this analysis, we started with the basic-factors regression scores we computed earlier. Higher scores are associated with a prison sentence; lower scores, with probation. For each crime, we then generated a frequency distribution of these scores and divided it at a point where the percentage of people with a certain score or higher was approximately equal to the actual percentage of people who went to prison in the 1980 statewide database. For example, as shown in Fig. 2.1, 30 percent of all convicted burglars were imprisoned in 1983 in California. Thus, we divided our regression scores for burglary at the point where 70 percent of the scores were below and 30 percent were above. We then "predicted" prison sentences for the 30 percent who had scores above that cutoff point and probation sentences for those below. As Table 4.3 shows, for each of the crime types, our predicted sentences failed to match the actual sentence received in 20 to 25 percent of the cases, achieving a correspondence rate of about 75 percent.

Table 4.3

CORRESPONDENCE BETWEEN STATISTICALLY PREDICTED SENTENCE
AND SENTENCE ACTUALLY IMPOSED
(percent)

Actual Sentence and Prediction Correspondence ^a	Assault	Robbery	Burglary	Theft	Forgery	Drugs
Probation	60	30	70	80	70	70
<i>False negatives^b</i>	18	30	13	13	14	11
Incarceration	40	70	30	20	30	30
<i>False positives^c</i>	37	15	38	44	44	50
Overall correspondence	74	81	77	81	76	75

^aPercentages are approximate.

^bPredicted to receive probation, actually got prison.

^cPredicted to receive prison, actually got probation.

The inconsistencies between our predicted sentence and the actual sentence may have several sources. The regression model may not contain all of the predictors necessary to account for the total variance in the prison/probation decision—all empirical models suffer to some degree from this shortcoming. Alternatively, the inconsistency may lie in the prison/probation decision itself. Different judges may be receiving different information about offenders they sentence; or they may be receiving the same information but weighting it differently. Judges may or may not be individually consistent in their prison/probation decisions, and differences among judges may also produce variation. There is no way of knowing which source of inconsistency is dominant in our model.

We can separate the overall correspondence rate into two components: "false negatives" and "false positives" (see Table 4.3). A false positive is a probationer for whom we predicted a prison sentence (based on his basic-factors regression score); a false negative is a prisoner for whom we predicted probation.

In the case of crimes for which the overall probability of receiving a probation sentence is high, the false positive rate is between 37 and 50 percent. In the case of robbery, the false positive rate is much lower, 15 percent. Our false negative rates are lower than our false positive rates for all offenses except robbery, ranging between 11 and 18 percent. For robbery, the false negative rate is 30 percent.⁵

Both types of "errors" have certain costs. When serious offenders are sentenced to probation, the criminal justice system gets bad publicity, local and state agencies must spend more of their resources to apprehend and process offenders for repeated crimes, and, most serious of all, the crime rates in the community increase. Sending less serious offenders to prison results in the social and moral costs of not awarding probation to individuals who could be safely released, the state (and taxpayers) bear the substantial financial difference between the costs of prison and probation, and the prison experience may influence some offenders to extend their criminal careers.

We next looked at the issue of whether the courts consistently sentence the most serious felons to prison and the least serious to probation. We devised a simple seriousness scale and applied it to the statewide data to examine how the probability of imprisonment increases as the seriousness score increases.

We assigned a value of 1 for each of the following basic factors: two or more conviction counts; two or more prior adult convictions; being

⁵These false positive rates are somewhat lower than those derived with recidivism-prediction instruments, which are often as high as 60 percent (see Cohen, 1983).

on parole (either juvenile or adult); possessing a gun; using a weapon; seriously injuring a victim; and being a drug addict or under the influence of drugs at the time of the crime. These factors were shown in the regression analysis to increase a convicted offender's chance of imprisonment. For each individual in our sample, we calculated the total number of items that were applicable; scores ranged from 0 to 7. We then cross-tabulated this score and the prison/probation decision, and converted the entries to the percentage of offenders sentenced to prison. The results are shown in Table 4.4.

For all offenses except assault, a person with a score of 3 or more has an 80 percent or greater chance of going to prison. Those with scores of 5 or more have virtually a 100 percent chance of imprisonment. Very few of the defendants had scores that high. However, the highest percentage of high scores was among robbery defendants, who, as mentioned earlier, also have the highest probability of imprisonment, given conviction. People with scores of 0, i.e., none of the "bad" basic factors, seldom went to prison.

RELATIONSHIP BETWEEN RECIDIVISM AND PROBABILITY-OF-IMPRISONMENT SCORE

Our sentencing model basically describes current prison/probation decisionmaking, but whether the factors identified as *being* used are the correct ones to use is a different matter. Our identified factors are quite consistent with the law, and we hypothesized that the factors that seem to influence the prison/probation decision may be considered reasonable predictors of recidivism if probationers with low scores have low recidivism rates and persons with high scores have high rates. Because our probation subsample contains people from low-, moderate-, and high-probability-of-imprisonment groups, we were able to test this hypothesis.

Alameda County had more high- and moderate-probability-of-imprisonment offenders, and it also had higher recidivism rates. In the combined sample, 46 percent of the probationers had low probability-of-imprisonment scores, 34 percent had moderate scores, and 20 percent had high scores.

We found that 45 percent of those with low-probability-of-imprisonment scores had no arrests while on probation, while only 22 percent of those with high scores did. The moderate-probability group had a rearrest rate of 71 percent, making them "look" more like the high-scoring group. (We discuss this issue in more detail later.) More informative are the different levels of recidivism. Figure 4.1 shows the

Table 4.4

OFFENDERS SENTENCED TO PRISON, BY SERIOUSNESS SCORE^a

Score	Assault		Robbery		Burglary		Theft		Forgery		Drugs	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
0	26	7	288	18	2,292	5	1,706	4	133	4	703	8
1	142	13	541	39	2,167	32	1,803	22	245	22	512	25
2	381	15	622	68	1,004	64	729	48	167	44	303	46
3	451	40	622	91	341	87	159	78	35	92	95	79
4	193	70	429	98	99	95	28	100	4	100	21	100
5	62	94	170	99	16	100	6	100	0	—	1	100
6	7	100	36	97	6	100	0	—	0	—	0	—
7	0	—	2	100	0	—	0	—	0	—	0	—

^aSeriousness scores are made up of one point each for having two or more conviction counts, having two or more prior adult convictions, being on parole (juvenile or adult), possessing a gun during the crime, using a weapon during the crime, seriously injuring a victim during the crime, and being a drug addict or under the influence of drugs during the crime.

rearrest, reconviction, and reincarceration rates for the different groups.

Differences among probability-of-imprisonment groups were significant for all five recidivism measures. However, even those with low scores recidivate at rather high rates: 25 percent were reincarcerated during the 40-month follow-up period.

Thus, some of the factors associated with the imprisonment decision appear to be also associated with recidivism. However, these factors are certainly not completely reliable, since some high-scoring offenders did not recidivate, whereas many low-scoring probationers did. If the system continues to put felons on probation, the courts' ability to predict who will recidivate and who will not must be refined.

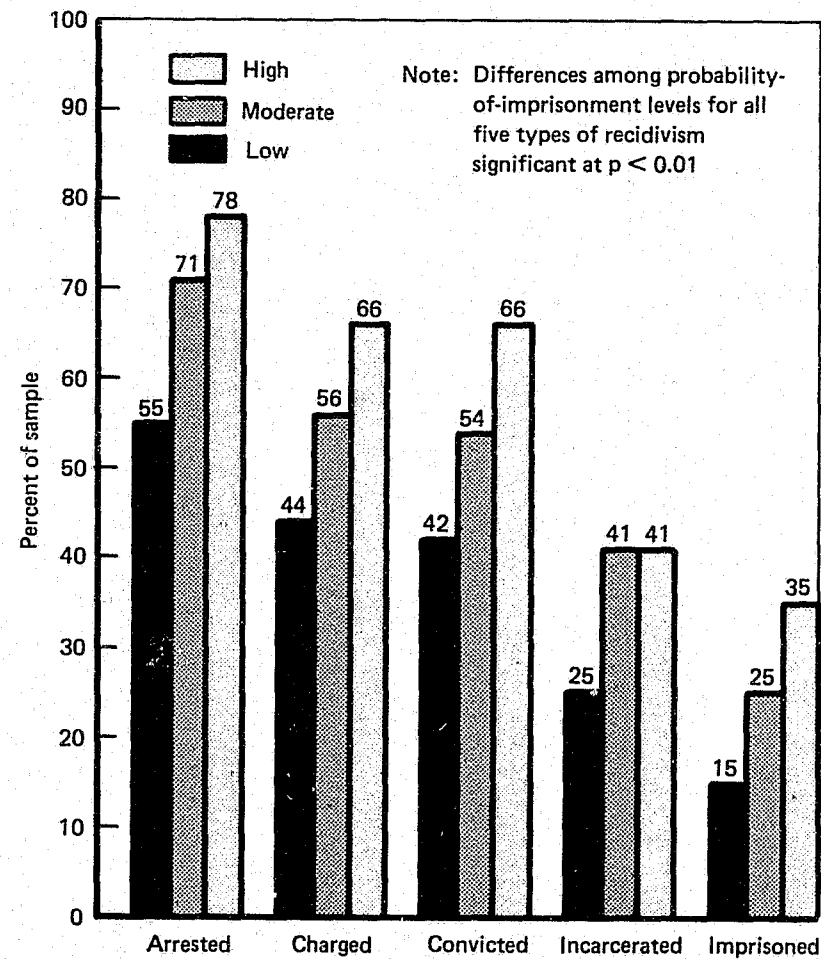


Fig. 4.1—Types of recidivism, by probability-of-imprisonment level

THE PSI SENTENCE RECOMMENDATION

Earlier sentencing studies have indicated that the courts usually agree with the sentence recommendation made in the presentence investigation (PSI).⁶ If this is so, the PSI should provide important clues about those cases in which we predicted imprisonment but the defendant was granted probation. If not, the cases in which the courts did not act on the PSI recommendation should prove instructive. We compared the sentence recommended in the PSI with the sentence actually imposed for each of the probationers in our subsample, to answer the following questions:

- For how many of the probationers did the PSI recommend prison?
- How valid were the PSI recommendations, given subsequent behavior on probation?
- How do the reasons cited for the PSI recommendation correlate with subsequent behavior?

Our investigation revealed that judges in Los Angeles and Alameda counties failed to follow the PSI recommendation in a fairly large number of cases. The PSIs had recommended prison for 36 percent of our sampled probationers (26 percent of the drug offenders, 36 percent of the property offenders, and 43 percent of the violent offenders).⁷ They recommended prison for 30 percent of those in our low-probability-of-imprisonment group, 34 percent in the moderate-probability group, and 54 percent in the high-probability group. If the PSI recommendations subsequently proved to be related to probation performance, the courts would be ignoring these informed judgments at the public's peril.

Does Probationer Behavior Validate PSI Recommendations?

Table 4.5 shows that the probation officers in Los Angeles and Alameda were not particularly good at projecting probation performance. *In only a few instances did the offenders they recommended for probation behave significantly better than those they recommended for*

⁶Carter and Wilkins (1967) found 95 percent agreement between probation recommendation and sentencing outcome in cases where the officer recommended probation, and 88 percent agreement in cases where the officer recommended prison.

⁷Unfortunately, we do not know the true range of disagreement between the PSI recommendation and the judge's decision because we did not have information on PSI recommendations for those persons sentenced to prison. It could be that for all prisoners the PSI did recommend prison. In this event, the 36 percent may not necessarily indicate disagreement, but rather the limited prison capacity.

Table 4.5
RELATIONSHIP BETWEEN PSI RECOMMENDATION AND RECIDIVISM
(percent)

Original Conviction Crime	% Rearrested		% Reconvicted		% Reconvicted of Violent Crime	
	PSI Recommends Prison	PSI Recommends Probation	PSI Recommends Prison	PSI Recommends Probation	PSI Recommends Prison	PSI Recommends Probation
Drugs	65	52	35	34	5	12
Property	67	68	60 ^a	51 ^a	19 ^a	13 ^a
Violent	65	56	53	44	29	27
All offenders combined	67	63	52	50	22	19

^aDifference between the percentage recommended for and against probation is significant at $p < .05$.

prison. While violent offenders for whom the PSI recommended prison did have higher rates of rearrest and reconviction than those for whom it recommended probation, the latter also had very high rearrest and reconviction rates. Rearrest rates of drug offenders were higher for those the PSIs would have sent to prison, but again, they were also very high among those recommended for probation. Table 4.5 presents a curious finding for drug offenders: Those recommended for probation had reconviction rates for violent crimes that were twice as high as among those recommended for prison.⁵ In all other cases, the recidivism rates are nearly equal.

These findings, however, should be interpreted cautiously. First, the PSIs we examined were prepared in counties where officials admit to having less than adequate time to prepare proper reports. Under these conditions, it is perhaps not surprising that the PSI information does not adequately distinguish recidivists. In less burdened counties, the "predictive" quality of the PSI might be higher.

Second, and perhaps more important, final sentencing decisions are influenced by many factors in addition to the PSI recommendation. In California, as in other states, plea bargaining is an essential component of the criminal justice process. Agreements can range from formal decrees with clearly specified sentences (in some cases, the actual conditions of probation are delineated) to informal verbal stipulations. When a plea bargain has been "struck," the probation officer's recommendation is no longer particularly salient. In theory, the investigating officer is not bound by a sentencing agreement and can recommend an alternative sentence. In practice, however, the probation officer's endorsement of a plea bargain is a *fait accompli* (Rosecrance, 1984). In such cases, the PSI has simply "delivered" the appropriate recommendation. It thus seems inappropriate to blame the probation department for the high number of recidivists on probation. Clearly, the decision to grant probation is based on a consensus of several key actors in the criminal justice system.

How Do Factors Influencing the PSI Recommendation Correlate with Recidivism?

The PSI sentencing recommendations in Los Angeles and Alameda counties did not correlate strongly with our recidivism measures. However, some of the reasons used to support those recommendations may have stronger predictive value than others. If this is the case, judges

⁵This effect for drug offenders shows up in the regression analyses of factors associated with recidivism. This issue is discussed in Sec. V.

and probation officers would benefit from knowing which ones to consider more seriously.

We investigated the relationship between reconviction rates and several of the factors the PSIs cited in recommending probation or prison. We calculated the reconviction rates for offenders who had each factor cited in their PSI, as well as for those who did not. Table 4.6 presents the results.⁶

At first glance, this table seems to tell the same story as Table 4.3. For most factors, the reconviction rates seem discouragingly similar for both groups. However, the conventional wisdom and some current statistics hold that some of these factors are strongly mitigating or aggravating circumstances that should heavily influence the sentencing decision. For example, California guidelines state that "the vulnerability of the victim" and "whether the defendant is remorseful" are to be used by the court in granting or denying probation (*California Rules of Court*, 1983). Yet, Table 4.6 shows that offenders whose PSIs cited those factors in recommending prison had almost the same reconviction rate as other offenders. The same is true for good prior probation performance and use of weapons. Actually, in the latter case, the difference in rates is counterintuitive: Where the PSIs recommended prison because the offender used a weapon, reconviction rates were lower.

We also found counterintuitive results for some of the factors that differed widely among the groups. For example, willingness to inform on or testify against accomplices evidently is not a valid ground for recommending probation. The reconviction rates for persons who informed on accomplices were somewhat higher than those for persons who apparently did not. This may, however, not be counterintuitive if one believes that offenders who inform are opportunists and are simply more sophisticated. Evidently, probation officers should also reconsider accepting the offender's mental or physical condition as a mitigating circumstance. As Table 4.6 shows, reconviction rates were higher for offenders who had that factor cited in their PSIs.

For some factors, the differences are both large and intuitive; these deserve more study. Reconviction rates were much lower for offenders whose PSIs recommended probation because of favorable family situations, good employment records, and lack of prior criminal records. The rates were much higher for those with a bad employment history

⁶Each item in the table was tested individually. In addition, these are overall percentage differences. They do not adjust for any other factors that may be related to reconviction. The relationship between these PSI items and reconviction might change if these controls were introduced. In the present study, small sample sizes precluded analysis of this type.

Table 4.6
RECONVICTION RATES FOR OFFENDERS WHOSE PSIs CITED
PARTICULAR ITEMS

Reasons for Recommendation	Percent Reconvicted	
	Item Cited	Item Not Cited
<i>For probation:</i>		
Family	30	52 ^a
Good employment record	27	53 ^a
No prior criminal record	38	55 ^a
Offender acknowledged wrongdoing	45	44
Mental or physical condition that reduced culpability	52	44
Good prior parole or probation	52	44
Informed on or testified against accomplices	52	43
<i>Against probation:</i>		
Poor employment record	63	50 ^a
Crime involved violence, cruelty	46	56 ^a
Crime was premeditated	55	54
Serious prior criminal record	63	48 ^a
Currently on probation/parole	60	53 ^a
Poor probation/parole performance	66	50 ^a
Armed with/used weapon	46	56 ^a
Vulnerable victim	51	55
Multiple victims	41	55 ^a
Large monetary value of crime	53	55
Defendant danger to society	64	53 ^a
Prior prison terms	69	53 ^a

^aSignificant at $p < .05$.

or a serious prior criminal record, those who were on parole or probation when arrested, and those having poor prior probation or parole performance and prior prison terms. Many of these basic factors are associated with being sentenced to prison (as discussed in Sec. IV).

To summarize, it appears that neither the PSIs nor the courts have done particularly well in identifying felons who are suitable for probation. Some of the factors leading to recommendations of imprisonment also predict recidivism, particularly the number of prior adult convictions. However, the identified criteria are certainly not totally reliable. Some offenders with high probability-of-imprisonment scores did not recidivate, while many with moderate and low probability-of-

imprisonment scores did recidivate. If the courts are going to continue to place felons on probation, ways must be found to improve probation officers' and judges' ability to predict who will fail and who will not. In the next section, we examine whether it is possible to improve the prison/probation decision, and, if so, how much effect such improvement might have on prison commitment rates.

V. CAN THE PRISON/PROBATION DECISION BE IMPROVED?

Felony probation has been a high-risk gamble for Los Angeles and Alameda counties. More than half the probationers have been re-arrested, about half have been reconvicted, and nearly 20 percent have been reconvicted of violent crimes. Because these offenders are convicted felons, their recidivism rates come as no great surprise. Nevertheless, it is both surprising and disturbing that the courts are placing on probation offenders whose criminal records are serious enough to suggest that they probably will recidivate. Given the effects of sentencing on prison overcrowding and public safety, we must ask whether it is possible to improve the courts' ability to distinguish between offenders who will recidivate and those who won't.

IDENTIFYING THE FACTORS ASSOCIATED WITH RECIDIVISM

To identify the factors most associated with recidivism, we merged the very detailed information from the statewide database (e.g., demographics, criminal record, alcohol and drug use, employment, PSI information) with the recidivism data for our Los Angeles and Alameda probation samples and then analyzed the factors most associated with recidivism in those samples. We then attempted to "predict" which of the probationers would recidivate. Finally, we looked at factors related to recidivism among the low-probability-of-imprisonment offenders to see if those factors could be used to identify *prisoners* in the statewide database who might have succeeded if they had been placed on probation.

In selecting the variables to include in our recidivism-prediction models, we used two principles: First, a factor had to show some variation within the sample, indicating that it could potentially differentiate between recidivists and nonrecidivists. Second, the factors associated with recidivism had to fit into a hierarchy like the one we created to analyze the prison/probation decision. Once the set of potentially important variables was selected and placed in the hierarchy, we could test them against the dependent variables of rearrest, reconviction, and reconviction for a violent crime.

We began with cross-tabulations between offender characteristics and recidivism rates. Our univariate findings are summarized below.¹

Rearrest. The following characteristics were significantly associated with a greater likelihood of being arrested while on probation: prior juvenile and adult convictions, prior probation revocations, having a jail sentence imposed with probation, past use of hard drugs, having aggravating circumstances cited, living with parents, and being black. In contrast, the following characteristics were associated with a decreased likelihood of rearrest: being recommended for probation in the PSI, having mitigating circumstances cited in the PSI, living with wife and/or children, having more than a high-school education, and being white.

Reconviction. After the percentages were reduced to account for the fact that not all arrests resulted in convictions, the relationships between background factors and having a subsequent conviction were almost identical to those associated with rearrest; however, persons with less than a high-school education had a higher likelihood of reconviction.

Reconviction for a Violent Crime. After reducing the percentages still further to account for the fact that not all convictions are for violent crimes, we found that the relationships discussed above still held, but most were weaker than for rearrest and reconviction. Persons with less than a high-school education had a much higher likelihood of being reconvicted for a violent crime; being black was more strongly associated with being reconvicted for violent crimes than it was with having any rearrest or any reconviction; and Hispanics and others were less likely to be convicted for a violent crime. Unlike rearrest and reconviction, family living situation was not associated with reconviction for a violent crime.

These results suggest that there are differences between the recidivists and nonrecidivists. However, we cannot tell which differences are significant, because the cross-tabulations do not control simultaneously for the other variables.

For our multivariate examination of factors associated with recidivism, we started by conducting a factor analysis of the original CBPT variables to reduce the number of those retained for further analysis. A factor analysis attempts to condense the information presented by a number of variables into a smaller set of composite variables or "factors," while losing as little of the information as possible. We retained six factors: conviction crime type, previous criminality, employment,

¹See Appendix C for the probability of rearrest, reconviction, and reconviction for a violent crime for each of the characteristics studied.

drug use, probation officer's assessment of the offender's risk, and a socioeconomic factor associated with the offender's race and education.² We selected variables loading highly on these six factors for our subsequent regression analyses and arranged them hierarchically into four levels, as shown in Table 5.1.

Table 5.1

HIERARCHY OF FACTORS USED IN RECIDIVISM REGRESSION ANALYSES

Level 1: Current conviction crime type

- Drug^a
- Violent
- Property

Level 2: Personal culpability items

- Number of juvenile convictions
- Number of adult convictions
- Prior probation revocations
- Having a monthly income at arrest
- Jail term included with probation
- Being a drug abuser
- Being an alcohol abuser
- Case plea-bargained^b

Level 3: PSI

- PSI recommends probation
- PSI cites aggravated circumstances
- PSI cites mitigating circumstances

Level 4: Demographics

- Lives with wife/children
 - Lives with parents
 - Educational level
 - Age
 - Race
 - Black
 - Hispanic
 - White^c
-

^aDrug offenders were used as the reference group in the regression analyses.

^bWe defined this as a "process variable" earlier. However, for simplicity, we have combined it here with culpability items.

^cWhite offenders were used as the reference group in the regression analyses.

²We selected the six factors based on several criteria: the size of the eigenvalue, examination of the scree plot of eigenvalues, and interpretability of the factors.

These levels correspond roughly to the hierarchy of information on which the prison/probation decision is based.³ This correspondence is desirable because the prison/probation decision is to a great extent a judgment call about the offender's chances of succeeding or failing on probation. Consequently, the same factors necessarily come into play. Moreover, this hierarchy allows us to see how closely the factors associated with recidivism match the factors associated with the prison/probation decision.

The four levels correspond to the order of importance generally placed on the information for making the prison/probation decision. The first level is the conviction crime itself. The second level is personal culpability factors, principally the offender's prior criminal record. This level contains characteristics about which there is little dispute; they do not involve judgments, only simple counting. In contrast, the third level represents the opinion of the probation officer, an expert trained to assess the likely effects of sentencing alternatives for the offender. Finally, the fourth level consists of demographic factors. If the prison/probation decision is based primarily on just deserts or retribution, factors from this level would be less important. However, if these factors are negatively or positively associated with recidivism, probation officers and judges should know that they are.

Our hierarchical procedure guaranteed that even if a variable on a given level was statistically associated with recidivism, that variable would not be included in the set if the contribution it made could be made as well by a different variable *higher* in the hierarchy. For example, if education was associated with recidivism but also with drug use, we retained drug use, from Level 2, rather than education, from Level 4. Any variable listed as statistically significant in Tables 5.2, 5.3, and 5.4, then, made a contribution independent of any variable higher in the hierarchy.

Using our hierarchy of factors, we performed regression analyses to establish which factors were associated with our three recidivism measures.

³This correspondence is not exact, however. For the prison/probation decision, we did not have PSI information for offenders sent to prison; all analyses were conducted separately for different offense types, and we tested for race effects above and beyond the effects of other variables.

Table 5.2
FACTORS ASSOCIATED WITH REARRESTS

Factors (in order of importance)	Original Conviction Crime			All Offenders Combined
	Drug	Property	Violent	
Level 1: conviction crime ^a				
Personal				
Property				+
Level 2: personal culpability items				
Number of juvenile convictions		+	+	+
Number of adult convictions	+	+	+	+
Prior probation revocations				-
Having monthly income at arrest			+	+
Jail term included with probation				
Is drug abuser				
Is alcohol abuser				
Case was plea bargained				
Level 3: presentence investigation				
PSI recommends probation				
PSI cites aggravated circumstances				
PSI cites mitigating circumstances				
Level 4: demographics				
Lives with wife/children	-	-	-	-
Lives with parents	+			+
Educational level	+ ^b	-		
Age				
Race ^c				
Black		+		+
Hispanic				

NOTE: Minus signs (-) indicate a negative relationship between the item and rearrest; plus signs (+) indicate a positive relationship between the item and rearrest.

^aCompared with drug offenders.

^bFor drugs, persons under 21 or over 30 were more likely to be rearrested; those between 21 and 30 were less likely to be rearrested (the relationship is curvilinear).

^cCompared with white offenders.

Table 5.3
FACTORS ASSOCIATED WITH RECONVICTIONS

Factors (in order of importance)	Original Conviction Crime			All Offenders Combined
	Drug	Property	Violent	
Level 1: conviction crime ^a				
Personal				+
Property				+
Level 2: personal culpability items				
Number of juvenile convictions	+	+	+	+
Number of adult convictions	+	+	+	+
Prior probation revocations				
Having monthly income at arrest		-		-
Jail term included with probation				
Is drug abuser				
Is alcohol abuser			-	
Case was plea bargained				
Level 3: presentence investigation				
PSI recommends probation	+			
PSI cites aggravated circumstances				
PSI cites mitigating circumstances	-			
Level 4: demographics				
Lives with wife/children			-	
Lives with parents				
Educational level				
Age		-		-
Race ^b				
Black	-			
Hispanic				

NOTE: Minus signs (-) indicate a negative relationship between the item and reconviction; plus signs (+) indicate a positive relationship between the item and reconviction.

^aCompared with drug offenders.

^bCompared with white offenders.

Table 5.4
FACTORS ASSOCIATED WITH RECONVICTION FOR A VIOLENT CRIME

Factors (in order of importance)	Original Conviction Crime			All Offenders Combined
	Drug	Property	Violent	
Level 1: conviction crime ^a				
Personal				+
Property				+
Level 2: personal culpability items				
Number of juvenile convictions		+	+	+
Number of adult convictions	(b)			
Prior probation revocations				
Having monthly income at arrest	-			
Jail term included with probation				
Is drug abuser				
Is alcohol abuser			-	
Case was plea bargained				+
Level 3: presentence investigation				
PSI recommends probation	+			
PSI cites aggravated circumstances				
PSI cites mitigating circumstances	-			
Level 4: demographics				
Lives with wife/children				
Lives with parents		+	-	
Educational level				
Age				
Race ^c				
Black			+	
Hispanic				

NOTE: Minus signs (-) indicate a negative relationship between the item and reconviction for a violent crime; plus signs (+) indicate a positive relationship between the item and reconviction for a violent crime.

^aCompared with drug offenders.

^bHere, the pattern suggests that those with no prior adult convictions are the most likely to be reconvicted for a violent crime.

^cCompared with white offenders.

Factors Associated with Rearrest

The factors most strongly associated with rearrest appear in Levels 1, 2, and 4 (see Table 5.2). No factors in Level 3 (the PSI) were significant. For all offenders combined, the likelihood of rearrest was increased by the number of juvenile and adult convictions, an original sentence of jail plus probation, living with parents, and being black. However, there were some variations. The association between number of juvenile convictions and rearrest was weak for drug offenders. Having had a jail-plus-probation sentence was most strongly associated with rearrest for violent offenders. Drug offenders living with their parents were especially likely to be rearrested. Being black was most strongly associated with rearrest for property offenders. Older property offenders were less likely to be arrested. Drug offenders under 21 or over 30 were more likely to be rearrested.

For all probationers, having an income at the time of original arrest reduced the probability of rearrest. Also, for all probationers and for each group separately, offenders were less likely to be rearrested if they were living with wives and/or children.⁴

Factors Associated with Reconviction

Table 5.3 indicates that Levels 1 and 2 contain more factors associated with reconviction than the other levels do. Property and violent offenders are more likely to have new convictions than drug offenders. The number of prior juvenile and adult convictions (Level 2) correlates highly with having a new conviction for all probationers and within each offender group.

With one exception, all the other factors were negatively associated with new convictions. As with rearrest, probationers were less likely to have a new conviction if they had an income at the time of the original arrest; this association was especially strong for property offenders. At Level 4, older probationers were less likely to have new convictions; again, this association was especially strong for property offenders. The effect of living situation was much weaker for reconviction than for rearrest. Living with wife and/or children made reconviction less likely only for violent offenders. Finally, among drug offenders, being black was associated with decreased likelihood of a new conviction.

⁴A review of factors associated with recidivism (Pritchard, 1979) cited crime type, stability of employment, number of prior adult convictions, living arrangements, and history of alcohol abuse as stable predictors of recidivism. Our results also agree with Williams' (1979) finding that the best recidivism predictors are prior criminal conduct (not just prior convictions), existence of a juvenile record, property offenses, unemployment, drug use, and age (younger persons have higher recidivism rates).

Some Level 3 factors do become significant for reconviction. If the PSI reported mitigating circumstances in the original conviction crime, drug offenders were less likely to be convicted of a new crime, as one might expect. However, if the PSI had recommended probation for an original drug offense, the probationer was *more* likely to get a new conviction. This counterintuitive finding also carries over for new violent convictions. The implications of this are discussed in Section VI.

Factors Associated with Reconviction for a Violent Crime

As Table 5.4 shows, for all probationers combined and for each offender subgroup, even fewer factors appeared to be associated with an increased likelihood of having a new violent crime conviction. Unexpectedly, although the number of juvenile convictions was highly correlated with a violent conviction for all probationers, the number of adult convictions was not. Again, the finding for drug offenders seems counterintuitive: Those with prior adult convictions were less likely to be reconvicted for a violent crime. Plea bargaining was the only other factor associated with a violent crime conviction for all offenders, although it was not strong for any particular offender subgroup. On Level 3, drug offenders were again more likely to have a new violent crime conviction if the PSI had recommended probation for the original crime, but less likely to have one if the PSI listed mitigating circumstances.

Finally, no factors on Level 4 were significant predictors for all probationers combined. Among property offenders, living with parents was associated with a higher likelihood of reconviction for a violent crime. Among violent offenders, being black increased the likelihood of another violent crime conviction, while living with parents decreased that likelihood. This is the only measure, and the only offender group, for which living with parents was associated with lower probability of subsequent violent crime convictions.

It is interesting to compare the factors that predict the prison/probation decision with those that predict recidivism. There is not as much correspondence as one might expect. The only factor that strongly predicts both the decision to imprison and recidivism is prior convictions. Prior juvenile convictions, while a very strong predictor of recidivism, did not show up in the regression results as particularly influential in the sentencing decision (where adult convictions were of primary importance). Most of the other factors important to the imprisonment decision, such as weapon use and victim injury, failed to significantly predict recidivism. Likewise, factors that predicted recidivism, such as living situation and monthly income, failed to

influence the imprisonment decision. These differences undoubtedly reflect the trend in the California sentencing system toward a "just deserts" model, where sentencing is based primarily on the crime and prior criminal record, and not on factors necessarily associated with recidivism, e.g., employment and drug abuse.

PREDICTING RECIDIVISM

Information about factors that are associated with recidivism should be useful to probation officers and judges in making the prison/probation decision, particularly in view of the implications of felony probation for public safety. To explore the possibility of using factors we have identified in that decision, we performed two analyses. First, we calculated the proportion of variance accounted for by the factors at each level, for each recidivism measure. Then, we used the regression equations at each level to categorize individuals in the sample as likely or unlikely to recidivate. Unfortunately, our predictions were not sufficiently accurate for all outcomes and all offender groups to permit these factors to be used with total confidence in predicting recidivism.

The Amount of Variance Explained by Factors at Each Level

Table 5.5 presents the results for the raw and adjusted proportion of variance accounted for.⁵ The picture is a rather pessimistic one. For all offenders combined, only about 7 to 16 percent of the variance for the three outcomes can be accounted for by significant variables in four levels. Once the second level of "hard facts" is reached, information on Levels 3 and 4 explains the variance little more, if at all. Although the results are not a great deal better within offender categories, the details differ somewhat. Drug offenders exhibit a unique pattern for all three outcomes: For rearrest, family situation, age, and race account for a relatively large increase in the variance accounted for. We know from cross-tabulations that young Hispanic offenders living with their parents are disproportionately likely to be rearrested. Drug offenders also show a unique pattern for convictions: They are the only group for whom the addition of Level 3 information explains considerable variance. This pattern also occurs for conviction for a violent crime. Again, although Level 3 information adds nothing to what was learned from Level 2 for property and violent offenders, it adds some predictive information for drug offenders.

⁵The raw R^2 measures the proportion of variance in the outcome accounted for by the prediction variables included in the analysis. But, the more predictor variables, the greater the proportion of variance accounted for, even if the prediction variables were in reality useless. We therefore present the adjusted R^2 , which adjusts for the number of predictors in the regression.

Table 5.5

PROPORTION OF VARIANCE ACCOUNTED FOR BY RECIDIVISM MODELS

Level	Drug Offenders		Property Offenders		Violent Offenders		All Offenders Combined	
	Raw	Adj.	Raw	Adj.	Raw	Adj.	Raw	Adj.
Rearrest								
1							.04	(.04)
2	.03 ^a	(.00)	.07	(.04)	.13	(.09)	.12	(.10)
3	.03 ^a	(.00)	.08	(.05)	.13	(.09)	.12	(.10)
4	.26	(.20)	.15	(.10)	.14	(.10)	.16	(.13)
Reconviction								
1							.05	(.04)
2	.16	(.12)	.07	(.04)	.12	(.09)	.12	(.10)
3	.23	(.17)	.07	(.04)	.12	(.09)	.12	(.10)
4	.25	(.18)	.10	(.06)	.14	(.10)	.13	(.12)
Reconviction for Violent Crime								
1							.02	(.02)
2	.07	(.03)	.08	(.07)	.04 ^a	(.02)	.07	(.06)
3	.16	(.11)	.08	(.07)	.04 ^a	(.02)	.07	(.06)
4	.16	(.11)	.09	(.08)	.07 ^a	(.03)	.07	(.06)

^a R^2 not significant at $p < .05$.

Accuracy of Recidivism Predictions at Each Level

Although our variance-accounted-for results did not bode well for the ability to predict which individuals in our sample would recidivate, we chose to look at the accuracy of our predictions in another way.

As we had done for the prison/probation decision, we placed the cutoff points for the regression prediction scores at the actual recidivism rates. Thus, for rearrest, the cutoff score for all probationers was placed at the point at which 65 percent were predicted to recidivate and 35 percent were predicted not to recidivate. We also adjusted the cutoff score for each outcome within each offender group separately. Then we calculated the number of probationers whose actual outcomes matched our predicted outcomes.

Table 5.6 presents our results. We can get a sense of the predictive accuracy of our models by comparing our classification rates with those

Table 5.6
PERCENTAGE OF OFFENDERS CORRECTLY CLASSIFIED AT EACH LEVEL

Level ^a	Drug Offenders	Property Offenders	Violent Offenders	All Offenders Combined
Rearrest				
1				56
2	62	71	65	67
3	62	67	65	67
4	70	71	65	69
(by chance)	(51)	(60)	(52)	(54)
Reconviction				
1				57
2	63	62	68	63
3	69	62	68	63
4	75	63	71	64
(by chance)	(53)	(51)	(50)	(50)
Reconviction for a Violent Crime				
1				66
2	81	71	64	71
3	87	71	64	71
4	87	75	69	71
(by chance)	(79)	(68)	(61)	(68)

^aLevel 1 = current conviction crime type

Level 2 = personal culpability, e.g., prior convictions, prior probation revocations, income at arrest, drug and alcohol use

Level 3 = PSI sentence recommendation

Level 4 = demographics (age, race, education, living arrangements).

obtained by randomly assigning persons to rearrest, reconviction, or reconviction for a violent crime such that the assigned percentages matched the actual percentages. The rates at which we would have correctly identified recidivists by chance are shown in parentheses in Table 5.6. This rate, in essence, ignores all information about the offender and his offense in making the classification.

For all probationers, knowing the conviction crime (Level 1) allowed us to predict rearrest correctly 56 percent of the time. Adding personal culpability items (Level 2) improved the accuracy by only 11 percent, and adding demographic factors (Level 4) added only 2 more percent, for a total of 69 percent accuracy. The proportion correctly classified by chance would be 54 percent. Thus, considering information from all levels improves our accuracy in predicting rearrests only 15 percent. These results are displayed graphically in Fig. 5.1.

For reconviction, predictions were only 64 percent accurate; the accuracy was slightly higher for reconviction of a violent crime, but was still only 71 percent. Our models for rearrest and reconviction provide greater improvements over chance than do our models for predicting reconviction for a violent crime. Within offense types, we are better able to predict recidivism for drug offenders than for property or violent offenders.

The accuracy of our predictions can also be evaluated in terms of false positive and false negative rates. False positives occur when our model predicts that an offender will recidivate, when in fact he does not. False negatives occur when our model predicts that an offender will not recidivate, when in fact he does. Optimally, we wish to minimize both types of errors.

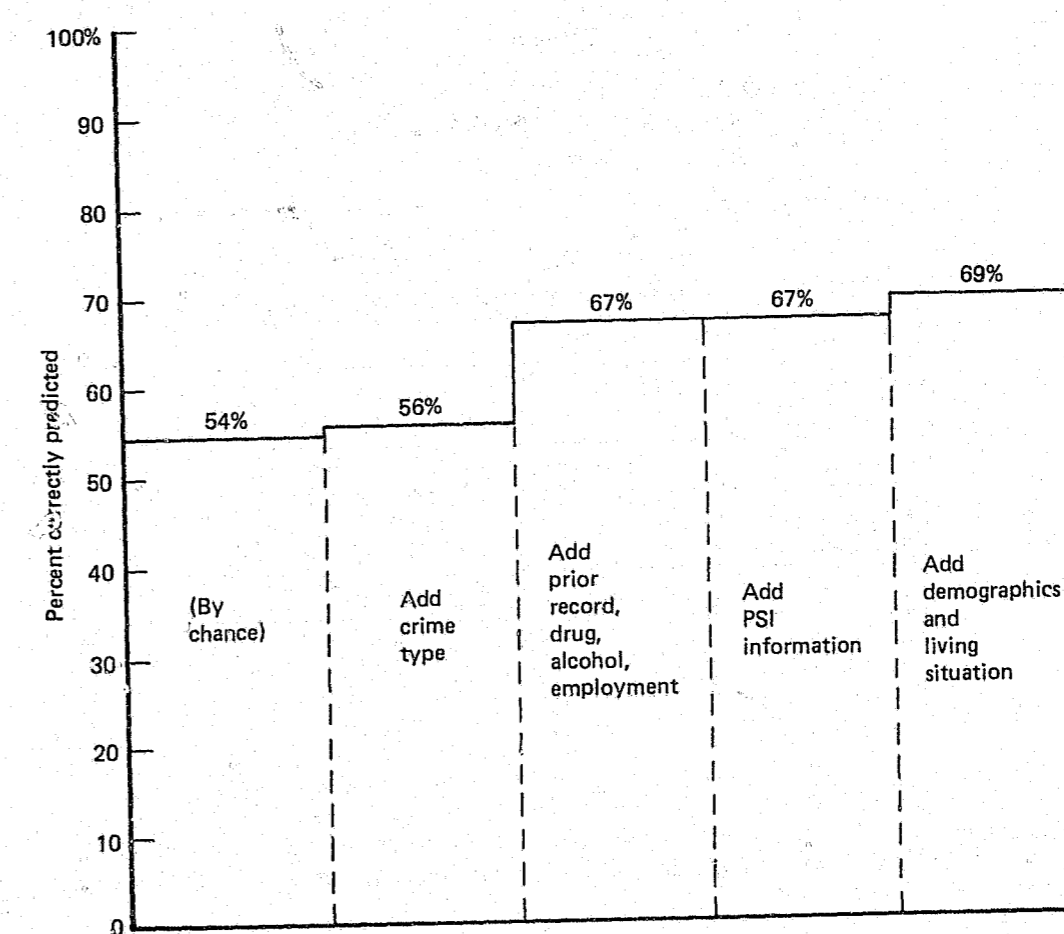


Fig. 5.1—Statistical ability to correctly predict rearrests
(all offenders combined)

Table 5.7 presents the false positive and false negative rates for the models that use all the levels of our hierarchy (i.e., our most "complete" models). The false positive rates are lowest for the models predicting rearrest and highest for models predicting reconviction for a violent crime. In predicting rearrest and reconviction, our false positive rates are substantially lower than those reported in most previous research (see Cohen, 1983).⁶

These results indicate that the factors associated with recidivism in our regression analyses would be of limited use to the courts for identifying potential recidivists. Although the analyses revealed strong associations between those factors and recidivism, our predictions using them were not very accurate. Until statistically based predictions can be made more accurate, basing sentencing decisions on them would raise obvious moral and legal questions.

Table 5.7
FALSE POSITIVE AND FALSE NEGATIVE RATES
FOR MODELS PREDICTING RECIDIVISM
(percent)

Rate	Drug Offenders	Property Offenders	Personal Offenders	All Offenders Combined
Rearrest				
False positive	26	12	30	24
False negative	35	57	44	44
Reconviction				
False positive	37	32	31	37
False negative	18	43	27	36
Reconviction for a Violent Crime				
False positive	60	65	56	68
False negative	7	17	21	16

⁶However, this is due in part to the frequency of rearrests and reconvictions in our sample. Attempts to statistically model rare events usually produce high false positive rates.

IDENTIFYING GOOD CANDIDATES FOR PROBATION

Although our results for all offenders are disappointing, what about the less serious offenders?⁷ Is it possible, using our regression models, to identify a group of offenders who have both a low probability of imprisonment and low recidivism rates? If so, consistently granting such offenders probation could help the courts to ease prison overcrowding without further threatening public safety.

To answer this question, we studied the probationers that our prison/probation analysis had identified as having a low probability of being imprisoned. We focused on reconvictions, because a conviction establishes that the probationer has indeed committed a crime and was not merely suspected of one. Recall that 58 percent of the low-probability-of-imprisonment group remained conviction-free (see Fig. 4.1).

The Analysis

Reason would suggest that probationers having a low probability of imprisonment who remain conviction-free might be among the least serious offenders. These persons in our sample had very few characteristics associated with being sentenced to prison. Because many of those characteristics also predict recidivism, we assumed that within the low-probability-of-imprisonment group, lack of a new conviction would be associated with lack of those characteristics. Consequently, we tried to distinguish between the low-probability-of-imprisonment probationers who remained conviction-free and those who did not, by using a hierarchical analysis like that in the prison/probation decision and recidivism analyses described above.

In essence, we repeated the recidivism analysis but limited it to the low-probability-of-imprisonment group. However, we made some changes. First, because the ultimate aim was to identify *prisoners* in our statewide database who might remain conviction-free, we did not include variables from the original hierarchy that prisoners did not have, e.g., a recommendation of probation on the PSI. Second, we did

⁷We were also interested in learning what differentiates the high-probability-of-imprisonment probationers who were *not* reconvicted during our follow-up period (there were 190 such persons). This is the crux of the false positive prediction problem. These persons had all of the characteristics (e.g., use of weapon, victim injury) that would have suggested a high probability of being imprisoned. However, the courts placed them on probation, and some of them succeeded. We attempted to identify the significant characteristics with preliminary cross-tabulations between various characteristics and remaining conviction-free. Unfortunately, we found *virtually no differences between the characteristics of high-probability-of-imprisonment persons who did and did not remain conviction-free*. We therefore decided against any further analyses on this point.

not include plea bargaining, because we felt that it was inappropriate to include court-processing variables. Finally, we simplified information on prior convictions by using a "none" versus "any" response for both juvenile and adult conviction information.

Our revised analysis consisted of recording the conviction crime type, then "stepping in" the significant Level 2 factors (the offender's criminal record), then the significant Level 4 factors (the demographic factors).⁸ Table 5.8 presents the items for our final model, along with the parameter estimates and the summary scores associated with the likelihood that an offender having a low probability of imprisonment will remain conviction-free.

Characteristics of Felony Probationers Who Do Not Recidivate

In Table 5.8, positive weights are associated with having a subsequent conviction. As we found in our earlier recidivism analysis, property offenders are more likely than other types of offenders to have new convictions. Prior convictions, especially juvenile convictions, "predict" new convictions, as do probation revocations, unemployment, drug history, living with parents, and lacking a high-school diploma. The one negative coefficient is "being between 26 and 30." People between those ages were less likely to have a reconviction than were younger or older probationers.

We assigned each person a score representing the sum of weights for his characteristics. We then ran a frequency distribution between these scores and the condition of remaining conviction-free. We found that the lower the score, the lower the chance that the individual would have a new conviction during the study period. By dividing the frequency distribution at any point and seeing what proportion of people with scores this low or lower remain conviction-free, we can establish different cut points for identifying offenders who are more or less likely to fail on probation. In short, this scale enables us to identify those low-probability-of-imprisonment probationers who are least likely to recidivate.

⁸One other slight modification involved the way we handled race. We did not want to use information about a person's race to predict success on probation. Therefore, we stepped in Level 4 variables, omitting race from the list of possible candidates. After we had decided upon a model based on crime type, significant Level 2 factors, and significant Level 4 factors, we allowed the race items to step in. We found, at this point, that over and above all the variables we had included, race did not add anything (i.e., did not step into the model).

Table 5.8
CHARACTERISTICS ASSOCIATED WITH SUBSEQUENT
CONVICTIONS FOR LOW-PROBABILITY-
OF-IMPRISONMENT PROBATIONERS

a. Parameter Estimates	
Characteristic	Parameter Estimate
Convicted of a violent crime	.032
Convicted of a property crime	.090
Any juvenile convictions	.129
Any adult convictions	.099
Any probation revocations	.287
Not employed	.123
History of hard drug use, addiction, or influence during offense	.214
Lives with parents	.103
Not a high-school graduate	.106
Between 26 and 30 years old	-.111
b. Probability of Remaining Conviction-Free	
Summary Score	Probability
< .020	90
< .143	85
< .196	80
< .214	75
< .322	70
< .461	65

Characteristics of Prisoners Who Might Have Succeeded on Probation

Having established the characteristics that distinguish convicted felons who are most likely to succeed on probation, we returned to the prisoners in our statewide database. We were interested in "simulating" these statistical models on the prisoner population to determine what percentage of those sentenced to prison in 1980 had the characteristics that would have identified them as good candidates for probation. From a policy perspective, the question is, What percentage of California prisoners would have been granted probation if the courts had used this type of information in making the prison/probation decision?

The statewide database contained 7,099⁹ prisoners, of whom 791 were identified by our statistical models as having a low probability of imprisonment. If the courts had sentenced them to probation, the incoming prison population would have been lowered by 11 percent. Although that is not a particularly high percentage, 791 prison slots at \$50,000 apiece (construction costs) and \$15,000 annual operating costs constitute a substantial budget item. Nevertheless, putting these felons on probation would have increased costs in terms of public safety.

As we have seen, our low-probability-of-imprisonment probationers may have recidivated at lower rates than higher-probability-of-imprisonment criminals, but 42 percent of them were convicted of new crimes. Consequently, a blanket practice of giving all these offenders probation would probably be detrimental to public safety. But how large would the effect on prison overcrowding be if the courts gave probation only to those prisoners who statistically matched our *nonrecidivating, low-risk* probationers?

We addressed that question by creating scores for the low-probability-of-imprisonment prisoners in the same way that we did for our probationers—that is, by giving each prisoner a score that was the sum of the regression weights in Table 5.8. We then identified the prisoners whose scores corresponded to those of probationers who had a 75 percent (or greater) chance of remaining conviction-free. Using that cutoff point, we estimate that only 183 of the 791 low-probability-of-imprisonment prisoners (23 percent) would have remained conviction-free if they had been placed on probation.¹⁰ That represents only 2.6 percent of the incoming prisoners in our sample. (The percentage of “incoming” inmates is not the same as the percentage of inmates housed in prison on any one day).

IMPLICATIONS FOR FELONY PROBATION

These figures have several important implications for the California criminal justice system. First, they indicate that very few offenders housed in California prisons are good bets for probation. Even if the criminal justice system were willing to take a 25 percent chance that offenders would recidivate, less than 3 percent of those coming into California prisons would qualify for probation.

⁹This number is unweighted and represents the raw number of persons sent to prison in the 17 counties for assault, robbery, burglary, forgery, theft, and drugs.

¹⁰It is important to recall here that we had no way of validating this “prediction” because, unlike our probationer sample, the prisoners did not have any chance to succeed or fail, since they remained in prison.

The general implications for felony probation are rather distressing. Trends suggest that felony convictions will not drop appreciably. Our study shows that probation did not work very well for felons sentenced in Los Angeles and Alameda counties: Even those who appeared to be less serious offenders recidivated at rather high rates and often turned to more serious crimes than they were originally convicted of. The public demands more severe punishment for felons, but the budget simply cannot stretch far enough to meet the need for more prison slots without curtailing other, equally important programs and services. Ironically, probation has been one of those services.

Under the circumstances, what options are available to California and the many other states that face, or will soon face, these problems? In the next section, we argue that the only way to ease prison overcrowding and safeguard the community is to find alternative means of handling those convicted felons who fall in the gray area between the most serious offenders—who are and should be sentenced to prison—and the very low-risk offenders who require minimal, if any, community supervision.

VI. INTENSIVE COMMUNITY SURVEILLANCE AS A SENTENCING ALTERNATIVE

At present, the criminal justice system offers two primary sentencing alternatives for convicted felons: prison or probation. (Felony probation routinely includes several months in jail.) Given the threat to public safety presented by felony probationers, it appears that policy-makers will have to consider increasing either the amount of imprisonment or the intensity of community supervision. If a greater portion of the convicted offender population had been imprisoned in California, the types of felons we studied might not have remained in the community. But in our opinion, this option, while it reflects the public's current punitive mood, is neither feasible nor necessary.

Prisons are so seriously overcrowded that 31 states are now under court order or consent decrees to reduce overcrowding and improve related conditions. States are using all available resources to construct decent housing for prisoners. The federal government is not likely to assist the states in this venture; given the present state of the American economy, there is little money available for prisons. State governments are simply unable to lay out the cash necessary to build their way out of the current overcrowded situation, so they are attempting to create less expensive detention facilities, e.g., by converting hotels, military bases, and the like. But as these options become available, they will be urgently needed to relieve overcrowded prisons, so it seems infeasible to suggest that prison space be used to house felony probationers.

The second major option is to rethink probation and the role it might play in punishing and supervising convicted felons. We feel strongly that this option holds more promise. We are not arguing that probation agencies should simply be given more resources. It is our opinion that routine probation, by definition, is *inappropriate for most felons*.

Probation was conceived and structured to accommodate offenders who present little threat to, and can become productive members of, society. Today, as always, the kinds of aid and services it offers are vitally important for such offenders. However, those persons rarely get probation anymore—most of them are never charged, much less convicted. Many of them may ultimately become more serious criminals because the system can no longer afford to "notice" their minor crimes,

constrain their activities, or support their attempts to reform in any way.¹

We believe that this situation calls for a difference in kind—not degree—of treatment. Most states now use differential supervision levels for probationers—maximum, medium, minimum—with requirements usually varying from two contacts per month to receipt of a monthly report by mail. Assignment to a particular supervision level is based on assessment of risk and/or need, or offense type. The assumption is that decreased caseloads will lead to increased contact between probation officers and maximum-supervision probationers, resulting in improved service-delivery and more efficient treatment, which in turn will reduce recidivism.

But enhancing conventional probation services does not appear to be the answer for serious felons. The criminal justice system needs an alternative, intermediate form of punishment, one that changes the perception of probation as a "slap on the wrist" to that of a viable alternative to imprisonment. The core of such an alternative must be intensive surveillance, coupled with substantial community service and/or restitution. It must be structured to satisfy public demands that the punishment fit the crime, to show criminals that crime really doesn't pay, and to control potential recidivists.

Different types of intensive probation surveillance programs are currently being tried in North Carolina, Texas, Florida, California, Georgia, New York, Ohio, and New Jersey.² Candidates for these programs are usually nonviolent offenders thought to have the potential to benefit from close supervision. They usually have face-to-face contact with probation officers several times a week. The programs usually have "house arrest" restrictions and mandatory employment or community service requirements. Many of the programs are funded in part from fees paid by the probationers. These intensive supervision programs generally differ from previous "decreased caseload" experiments in that they are designed as alternatives to imprisonment, and usually focus more on surveillance and control than on rehabilitation. Many

¹Furthermore, the reluctance of the criminal justice system to punish these less serious crimes may affect public safety. Research has shown that burglars, car thieves, and other nonviolent offenders are generalists rather than specialists in crime. The burglar's most recent crime may have been nonviolent, but he has probably been arrested for violent crimes in the past. Often this type of offender later admits that he has committed violent as well as nonviolent crimes that never came to the attention of police (Petersilia, 1977; Chaiken and Chaiken, 1983).

²For more details of these programs, see Baird (1983), Gettinger (1983), Florida Department of Corrections (1983), New York Division of Probation (1980), Latessa (1983), Erwin (1983), Fields (1984), Georgia Department of Offender Rehabilitation (1983), and Texas Adult Probation Commission (1984).

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1 OF 2

of the individuals placed in intensive probation programs have already been sentenced to prison. In the states that operate this type of program, as many as 20 percent of convicted felons have been diverted from prison (Bureau of Justice Statistics, 1983).

Intensive supervision programs (ISPs) are attractive for a number of reasons. First, many in the judiciary have recognized a need for intermediate-level sanctions. The woeful condition of probation in many jurisdictions, coupled with the public perception that probation is not punishment, too often makes prison the only palatable option for judges. The stringent supervision requirements of ISPs, however, mean that judges can place offenders in an ISP without appearing to be "soft on crime."

Second, although ISPs are more expensive than traditional probation programs, their costs are considerably lower than those of prison construction and operation.

Third, probation has recently suffered from reductions in both resources and status. To recoup its losses and to protect against further cuts, probation in many jurisdictions has adopted a proactive posture. Forward-thinking administrators are promoting probation as a legitimate sanction by focusing renewed attention on the punitive aspects of community supervision, in an attempt to restore judicial and public confidence in the ability of probation to meet the needs of the community (Baird, 1983).

We describe several operational ISPs below, highlighting those aspects that appear essential for a program that is tough enough to provide genuine control over felony probationers. We then present some grids that courts could use in sentencing decisions for convicted felons and discuss the possible effects of creating an intermediate punishment program in California that uses such grids.

INTENSIVE SUPERVISION PROGRAMS

No one ISP model is entirely applicable to all jurisdictions. States contemplating the use of ISPs will have to resolve several issues. Most important, each program must be designed to operate within the political and fiscal realities of the parent agency. Goals and procedures must be carefully developed, along with a comprehensive implementation plan. Policymakers will need to address the following questions:

1. What activities will constitute "intensive supervision?"
2. How should program participants be selected?
3. What resources will be devoted to the ISP, and how will its cost-effectiveness be addressed?

4. How will the staff be selected and trained?
5. What will be the length of stay in the ISP?
6. Who will manage and implement the ISP?
7. How will the effects of the ISP be judged?
8. How will the ISP be funded, and will user fees be collected?
9. How will more treatment-oriented services be encouraged and provided for?

The ISPs described below are either relatively well-known, ongoing programs, or they represent unique approaches to intensive community surveillance.³

The New Jersey Intensive Supervision Program

In May 1983, the state of New Jersey allocated \$1 million to fund an ISP to alleviate the problem of prison overcrowding.⁴ The program is based on the premise that certain prisoners can be released to the community with minimal public risk if given a highly structured environment. That structure is provided by a combination of employment, formal ties with the community, supervision, restrictions on movement, and obligatory community service. The offender is constantly monitored to ensure that he is complying with the conditions of the program and remaining crime-free. Failure to do so results in immediate reimprisonment.

In addition to demanding a great deal from participating offenders, the ISP saves money. It is estimated that the program can maintain an offender for \$5,000 a year—in contrast to the \$15,000 cost of maintaining a prisoner. At present, the program can accommodate 300 to 500 offenders. It is run by the Administrative Office of the Courts that oversees county probation operations.

The program is open to inmates serving prison sentences for non-violent crimes. (Prisoners convicted of murder, robbery, or sex offenses are ineligible.) Inmates can apply for admission to the ISP after they have served at least 30, but no more than 60, days in prison. This ensures that each person has experienced some prison confinement and thus has been exposed to any deterrent effect that prison may have.

An offender who applies for the program must develop a personal plan to govern his activities upon release. This program aspect is extremely important, as it represents a formal mechanism for shifting

³These descriptions are drawn almost entirely from information provided by Baird (1983).

⁴According to information from New Jersey (1983), Baird (1983), and Toby (1983).

responsibility for behavior from the probation staff directly to the offender. The plan must describe his problems, future plans, resources in the community, and people who can help him. Each offender must have a community sponsor, with whom he will live. The sponsor must be willing to work with the ISP officer to help the offender live up to the plan and remain law-abiding. The offender must also identify several other people in the community who will help him live up to his obligations. These people are referred to as the "network team," and like the community sponsor, they must maintain close contact with the offender and his ISP officer. To ensure that everyone understands his obligations, the offender, the community sponsor, and all members of the network team must sign the plan.

The ISP officer contacts the offender at least two times a week, including nights and weekends. These officers are chosen from experienced probation and parole staff and are given special training to help them cope with aspects of the ISP that are not analogous to traditional probation programs. The program began with 20 ISP officers, each having a caseload of approximately 20.

Employment is a key feature of the New Jersey ISP. Before an offender can be accepted in the program, he must have confirmed employment or vocational training. In addition, he must perform certain types of community service and also participate in counseling or other social programs.

Each eligible applicant is given an application form that calls for some personal and criminal-history background, the name of a community sponsor, and the names of those who will form a network team. An ISP officer then interviews the inmate, compiles additional information on aspects of the case from his court and corrections records, and assesses the suitability of the community sponsor.

This information is submitted to the ISP Screening Board, which is composed of the Director of the ISP and representatives from corrections and the public. If the inmate is deemed eligible, the Board forwards his application to a three-judge Resentencing Panel for a final decision. If the Resentencing Panel approves the application, it grants permission for resentencing, adjourns the hearing for 90 days, places the applicant on recognizance to the community sponsor, and requires adherence to the applicant's plan.

At the conclusion of this 90-day period, the applicant may reapply to the Resentencing Panel for another 90-day release period. If the Panel concludes that the applicant's behavior warrants continued release, they suspend resentencing for a second 90-day period. Successful completion of this second period triggers a resentencing hearing at which the applicant is resented to the original term of

incarceration, less the time served. That sentence is suspended, subject to the participant's continued compliance with his ISP plan. Failure to fulfill the ISP plan results in a referral back to the Resentencing Panel for a violation hearing and reimprisonment. All ISP participants must successfully complete a minimum of one year in the program. Thereafter, they may be returned to regular probation supervision or discharged entirely, at the discretion of the Resentencing Panel.

This ISP combines close supervision and control in a relatively punitive program outside of prison. Participation in the program is designed to constitute punishment and hard work. Its minimum requirements are:

1. At least 16 hours of community service per month, if such opportunities are available.
2. Multiple weekly contacts with the ISP officer and the community sponsor.
3. Maintenance of a daily diary to show accomplishments each day.
4. Immediate notification to the ISP officer of any police contacts or arrests.
5. Participation in weekly counseling activities, if ordered.
6. Employment or vocational training program participation.
7. Participation in any treatment programs designated by the ISP officer.

The ISP officer notifies the chief of police in the town where the participant will live during the ISP period, to develop an ongoing relationship with local law-enforcement officials, the program, and the community sponsors. The ISP officer also may restrict the participant's movement in the community by invoking a period of home detention not to exceed 48 hours. (Home detention may be invoked, for example, in a crisis situation that has the potential for harming either the individual or the community.) Each ISP participant is required to be at home from 10:00 p.m. to 6:00 a.m. every day, although the curfew requirement may be relaxed at the discretion of the ISP officer.

While in the ISP program, the offender is on bench-warrant status. If he is charged with a probation violation of any kind, any judge authorized to issue bench warrants can verbally approve a revocation, and the offender will be immediately arrested and returned to prison.

The Georgia Intensive Probation Supervision

Georgia's Intensive Probation Supervision (IPS) program is the strictest probation program for adults in the United States. *Corrections Magazine* called it "the most ambitious of several programs across the country that are attempting to make probation a tough sanction against crime" (Gettinger, 1983).

In Georgia's IPS, 13 teams, each composed of a probation officer and a "surveillance officer," supervise no more than 25 adult probationers. They see each probationer at least five times a week. One probation officer is assigned to surveillance, which includes curfew enforcement, weekly record checks, verification of employment, and documentation of community service. The other officer serves as team leader and is responsible for all court-related activities, case planning, counseling, etc. The program is entirely funded by probation fees, which range from \$10 to \$50 per month per probationer. During the first year of operation, revenue from all probation fees was about \$650,000. The fees were initiated by the Probation Department without special legislation and the funds are not returned to the general treasury but remain with the department.⁵

The Georgia program has three supervision phases. Phase 1, the most restrictive, is in effect for three to six months. In this phase, probationers are seen at least five times a week (twice in the evening), adhere to a strict 10 p.m. curfew, perform a minimum of 50 hours of community service, and pay a supervision fee. A community sponsor is also required for each client, although his role seems somewhat ambiguous. Unemployed clients are required to be in the probation office every morning at 8 a.m. to review job search plans. Many of these requirements remain in effect in Phases 2 and 3, although contact and community service requirements are reduced and the curfew is sometimes relaxed.

Georgia's program is designed only for offenders who otherwise would have gone to prison. In most instances, IPS officers screen only offenders who have already been sentenced to prison; sometimes they go to prisons to bring inmates back into the community on probation. The specific objectives of the program call for the diversion of 36 offenders per team annually, while maintaining a success rate of 70 percent. Success is defined as transfer to normal probation, discharge, or early discharge.

⁵Charging fees for supervision has become an important corrections issue, particularly for parole and probation. The positive features of fee programs and the reasons for continued opposition to them are discussed in *Fees for Supervision*, National Institute of Corrections, 1983.

The selection criteria used in Georgia are decidedly different from those of other ISPs. For instance, Georgia rejects high-risk individuals, while the New York program (discussed below) is specifically designed for such persons. The Georgia program also rejects probation-revocation cases, while in Texas they comprise 35 percent of all ISP admissions.

Georgia has devoted substantial time and resources to staff training and orientation. All ISP staff receive about two weeks of training in program procedures, surveillance and enforcement skills, interviewing, and counseling techniques. Judges and other community leaders also receive a thorough orientation to the program. Probation officials attribute much of the acceptance and success of the program to this community relations effort.⁶

The New York Intensive Supervision Program

In New York, the division of probation has sponsored an ISP since 1978. It was not originally designed to be a "diversion" program, and it was until recently limited to offenders who were already on probation. But studies conducted by the New York Department of Corrections showed that hundreds of offenders were being sent to prison in New York who were, in terms of offense and criminal history, indistinguishable from the high-risk offenders that the state's classification system assigned to intensive probation. And the intensive probation cases were generally being handled quite successfully in the community. Thus, the ISP began accepting persons originally sentenced to prison. These diverted prison cases are expected to comprise 20 percent of the ISP caseload in 1984—approximately 500 probationers.

New York now operates one program for two distinct populations: high-risk probationers and offenders who would normally receive a prison sentence. Before a portion of the program was established as an alternative to incarceration, all participants were selected on the basis of scores from a risk-assessment evaluation.

The New York program is designed for caseloads of 25; each probationer is seen four times per month by the probation officer, and in addition, four collateral contacts are required per month. Cases generally remain in the ISP for nine to twelve months before being transferred to regular probation caseloads. Special conditions, including house arrest, may be added at the discretion of the presiding judge. Officials estimate that the program costs about \$1,000 per case

⁶For more information on the Georgia IPS, see *Intensive Probation Supervision*, Probation Division, Department of Offender Rehabilitation, Atlanta, Georgia, 1983, and Erwin (1983).

annually, in contrast to incarceration costs, which average about \$15,000 per year.

The Washington Intensive Supervision Program

Washington's ISP is one of the oldest in the nation. It began in 1976 with LEAA funding and has continued with state funding since 1979. The general goal of the program is to offer an alternative to prison. At present, the ISP employs 26 officers, who supervise about 600 cases.

The ISP initially accepted only cases released from prison, but now it also accepts probationers. Caseloads do not exceed 25, and requirements include one face-to-face contact per week and two collateral contacts per month. Reassessments are completed every four months, and requirements may be relaxed at the discretion of the ISP officer. The minimum stay in the ISP is one year.

Washington's program is unlike any other discussed here in several respects. First, participants may be selected at various stages: at the point of being recommended for prison at their sentencing hearing; at the prison reception center; after serving their minimum prison sentence; or during revocation proceedings.

Washington's selection criteria are also less structured and less conservative than those of most other ISPs. Only very violent offenders (usually those whose crimes involved loss of life) are rejected outright from the program. The program also emphasizes treatment and casework, perhaps more so than other ISPs, and provides some funding for purchase of services. These funds are generally used for mental health services and clinical assistance for sex offenders.

Washington charges parolees and traditional probationers \$15 per month; participants in the ISP are charged up to \$30 per month.

Contra Costa County (California) House Arrest Program

In 1984, Contra Costa County received a grant from a private foundation to develop an Adult Home Detention Program,⁷ in which three two-person probation officer teams provide extended supervision to no more than 25 adults on probation. The candidates for the program are inmates who are serving a county jail sentence as a condition of their probation. Prospective program participants are screened while in jail. Those found eligible for the program attend a hearing before the sentencing judge for the purpose of having their Order of Probation

⁷Information on this program is taken from an internal memo prepared by the Contra Costa County Probation Department, "Adult Home Detention Project," 1984.

modified and their place of detention changed from jail to their place of residence. Eligible participants may have been convicted of either a felony or a misdemeanor, must have been sentenced to more than 60 days in jail, must have served 25 percent of the jail sentence, and must not have been convicted of an offense involving personal violence where the "presumption is that there is a substantial likelihood that their release would result in great bodily harm to another person."

A study of the probation population in Contra Costa County revealed that 80 percent of its members were convicted of misdemeanor crimes. Further, 87 percent of those sentenced to jail as a condition of probation are misdemeanants. Thus, the Contra Costa County program was originally designed to get these persons out of jail, at substantial savings to the county. As the program has gained experience, persons sentenced from both Superior and Municipal courts have been considered for the Home Detention Project.

Program participants are required to remain at home unless expressly allowed to be away at specified times for predetermined reasons (e.g., employment).

Each participant is contacted by the probation officer team at least once a day. The annual cost of housing an individual in the local jail ranges from \$10,000 to \$20,000. The annual cost for an ISP participant is \$2,500.

SIGNIFICANCE OF ISPs FOR FUTURE PROGRAMS AND RESEARCH

The ISP concept is designed to provide close supervision and hard work for serious offenders, without confinement. These programs differ from earlier community service programs (and probation) in important ways. First, traditional community service programs seldom accept serious criminals. Second, felons in ISPs are required to work much harder and at less appealing jobs than in traditional probation programs (which typically "encourage" work). Third, the ISP has "teeth"—the offender is frequently on bench-warrant status and can (and will) be returned to prison if he fails to meet the conditions of his participation. Fourth, the ISP officer performs far more supervision than does a probation officer. He can extend the offender's curfew, drop in on him unannounced to monitor his behavior, and play a major role in determining whether he remains in the community. Most important, the ISP officer can move to invoke the bench warrant, guaranteeing that the offender will return to prison. Thus, the threat of reincarceration is real, in contrast to traditional probation programs,

where revocation is a very laborious process and consequently is relatively rare (McAnany and Thomson, 1982).

Formal evaluations of several ISPs are now being conducted. These evaluations will determine whether the programs are achieving their own specific objectives and the general objectives of intermediate punishment. Most important, they will indicate how ISP control of criminal activities compares with the control achieved by standard prison terms for similar offenses. If ISPs do control recidivism, they should become available to the courts as a sentencing alternative for convicted felons. However, their acceptance will depend in part on the ability of the courts to decide which alternatives are appropriate for which offenders.

HOW ISPs WOULD AFFECT THE CALIFORNIA SYSTEM

To discover how intensive community surveillance programs would affect California's system, we devised a simple alternative sentencing strategy.⁸ Using our weighted statewide database, we targeted people convicted of felonies for one of four types of punishment: summary ("mail-in") probation, traditional probation, intensive-supervision probation, or prison. No conviction offense was excluded from being placed in any of the four punishment types.

We used the results from our decision-to-imprison regression models to assign persons to prison and to identify a pool of possible probation candidates. We used the results of our recidivism analysis to assign the possible probation candidates to varying levels of supervision (i.e., summary, traditional, or intensive supervision). This strategy incorporates current prison/probation decisionmaking.⁹

We began by using the basic-factors model parameter estimates of Table 6.1 to assign each felon in our sample a probability-of-imprisonment score. We then ranked each person within his conviction class. To ensure that the size of the prison population would remain constant, we "sentenced" to prison all those with scores higher than the current cutpoint score (the value in the last row of Table 6.1).

⁸Statistical models developed on one population do not necessarily transfer intact to another population. Wright et al. (1984) report major replication problems using the Wisconsin probation risk-assessment instrument on a New York sample. We strongly suggest that grids should first be validated on the population for which they are to be used.

⁹Another possible strategy would have been to use only the results from the recidivism analysis to assign appropriate sentence dispositions. We decided against this strategy, recognizing that recidivism prediction is not the only purpose of sentencing. We wanted a simulation technique that would incorporate "just deserts" considerations (as the imprisonment analysis does) as well as recidivism prediction.

Table 6.1

PARAMETER ESTIMATES FOR DETERMINING PROBABILITY-OF-IMPRISONMENT SCORE (Basic-factors model)

Basic Factors	Assault	Robbery	Burglary	Theft	Forgery	Drugs
Conviction counts						
2 counts	+46	+26	+41	+40	+24	+53
3+ counts	+58	+27	+49	+53	+31	+63
Prior criminal record						
1 prior adult conviction			+10			
2-4 prior adult convictions	+16	+17	+25	+12	+13	
5+ prior adult convictions	+19	+20	+38	+22	+32	+17
1 prior adult incarceration				+11		
On juvenile parole		+28	+26			
On adult parole	+37	+16	+32	+22	+36	
Victim characteristics						
Victim known or related	-.06				-.12	
Weapons and injury						
Armed with gun		+16				
Weapon used		+15	+17			
Victim seriously injured	+06	+10				
Drug use						
Under influence of drugs	+42					
Drug addict		+13		+15		+26
Cutpoints for assigning probability of imprisonment						
Low	<.20	<.58	<.10	<.10	<.10	<.20
Moderate	.20-.355	.58-.814	.10-.40	.10-.28	.10-.39	.20-.50
High	>.355	>.814	>.40	>.28	>.39	>.50
Current cutpoints ^a	>.353	>.540	>.412	>.321	>.391	>.290

NOTE: For burglary, forgery, and drugs, the current cutpoints at which convicted offenders are sent to prison are 25 percent, 24 percent, and 22 percent, respectively. These are slightly lower than the current rates, but we were not able to divide the scores at the exact current percentages of those sent to prison for these crimes.

^aCurrent cutpoints mark the score at which the percentage of the offenders in the statewide database with scores this high or higher equals the percentage currently sent to prison for the offense.

Thus, we sent to prison those individuals convicted of assault who had scores greater than .353; felons convicted of robbery who had scores above .540; and so forth.

The second step was to identify those felons who have good chance of remaining conviction-free if placed on summary probation, i.e., with minimal (if any) supervision by a probation officer. We considered only persons who are unlikely to go to prison under the current sentencing system as candidates for summary probation. From this group, we tried to predict the "best bets" for probation and placed them under the most minimal form of supervision. We considered offenders from the lowest third of the probability-of-imprisonment scores within each offense class and computed a second score for them (see Table 5.8). Candidates for summary probation had at least a 75 percent chance of remaining conviction-free, i.e., they had to have scores below .214.¹⁰ Thirteen percent of the offenders in the statewide database were thus "placed" on summary probation.

The remainder of the group were "placed" either on traditional probation or in an ISP.¹¹ One of the eligibility requirements for the ISPs discussed above was that participants must be "prison bound." In our scheme, this meant that we wanted to place in the program offenders having a relatively high probability of imprisonment. Because of cost constraints, ISPs can handle only small numbers of probationers. We expect that in California, funding would be available for no more than about 20 percent of the current probation population to be placed in ISPs. Therefore, we selected 2,000 of the remaining people with the highest probability-of-imprisonment scores for intensive supervision. (We could at this point decide whether we want to send equal proportions of each crime class to the intensive program, or whether to place all robbers and assaulters on intensive supervision, etc.)

Having selected the subgroup for intensive supervision, we were left with people whose crimes did not appear serious enough to warrant prison or intensive supervision, but were too serious for summary or minimum probation to be appropriate. This remaining group was, essentially by default, placed on traditional probation. Using this model, we reduced the traditional probation caseload by approximately 38 percent. Table 6.2 shows the proportion of those in the statewide

¹⁰This figure is arbitrary. We could have chosen a lower or higher cutoff point.

¹¹Up to this point, we have suggested using our empirically based grids for sentencing assignments. This may be a good point at which a clinically based procedure could be used to decide which persons would be best suited for intensive supervision versus regular probation. Such a multistage procedure (using increasingly more expensive screening) would be similar to the "multiple gating" technique described by Loeber et al. (1984).

(felony probation plus prison) database who would be targeted for the four punishment types.

Table 6.2

PLACEMENT OF FELONS IN STATEWIDE DATABASE
USING ALTERNATIVE SENTENCING SCHEME

Sentence	Percentage
Summary (mail-in) probation	13
Traditional probation	41
Intensive community surveillance	12
Prison	34

We believe that intensive community surveillance/supervision programs will be the most significant experiment made by the criminal justice system in the next decade. We expect to see such programs adopted in jurisdictions across the country. If ISPs prove successful over time and across jurisdictions, they will not only restore probation's credibility, but they could also reduce incarceration rates without increasing crime. And perhaps most important, such programs may well rehabilitate at least some of the offenders who participate.

VII. IMPLICATIONS AND RECOMMENDATIONS

IMPLICATIONS OF THE STUDY

Although inadequate probation budgets, prison overcrowding, and the demand for harsher punishments have all been blamed for the current situation surrounding felony probation, the root of the problem goes much deeper. The U.S. criminal justice system has never developed a spectrum of sanctions to match the spectrum of criminality. There is virtually no means of incapacitating offenders in this country except imprisonment. Some have argued that imprisonment is overutilized because it is the only severe punishment available. Convicted offenders who are not locked up are usually given probation. Yet probation has evidently failed to constrain, much less punish, offenders. In our sample, even the low-risk probationers had rather high arrest and conviction rates.

This is by no means intended as an indictment of probation departments. With their reduced budgets and mountainous caseloads, they cannot be expected to supervise probationers closely. But even if they could, traditional, rehabilitation-oriented probation simply was not conceived or structured to handle the serious offenders it faces; and the traditional probationer population is being crowded out. Many first offenders, petty thieves, drug offenders, and disrupters have apparently come to see the system's "indifference" as an encouragement to commit more serious crimes.

The lack of sentencing alternatives is preventing the system from getting maximum incapacitation from the existing prison space. Prison is the only sentence that actually constrains and punishes high-risk criminals, so the courts are forced to imprison both the more and the most serious. Because the former greatly outnumber the latter, there is inadequate prison space to incapacitate the most serious offenders through lengthy terms. When high-risk prisoners become eligible for, say, good time credits, they are likely to get them.

This situation is self-perpetuating: With no alternatives for serious offenders, the prisons will continue to fill up, and more serious offenders will "spill over" to probation. This will increase the load on probation agencies, cause more petty offenders to be "ignored" by the system (potentially creating more career criminals), and increase recidivism rates. In short, we are marching toward an impasse, if not a breakdown, in the system, unless some financial miracle provides unlimited funds for prisons. That is highly unlikely (and, in our view, also undesirable).

We believe that alternative "intermediate" forms of punishment must be developed and implemented. The system should permit offenders to be recategorized and the appropriate sentencing alternatives imposed. A range of alternatives that includes prison, intensive community surveillance, traditional probation supervision, and summary, or "mail-in," probation would guarantee that prison space was used exclusively for the most serious and violent offenders. Placing the more serious of the remaining felons on intensive community surveillance and the least serious on summary probation would reduce the traditional probation group in California from 66 percent to 41 percent. This would allow much more systematic supervision for this group and it would create room for petty and first time-offenders, perhaps preventing the generation of more career criminals.

Instituting such a system raises a number of issues and has important implications for criminal justice policy, management, and research.

Considering Public Response

As the public becomes aware that at least a third of the probationer population in California consists of serious adult felons with high probabilities of recidivism, the demand for more severe punishment will increase—despite the economic realities. Under the circumstances, the public may view any program that allows felons to stay in the community as unacceptable, regardless of its stringency. Proponents of systems such as the one we propose will have to be very politically adept in presenting and gaining support for it. Otherwise, they may find the public demanding that major cuts be made in other programs so that more prisons and jails can be built, rather than funding a relatively untried, and apparently more lenient, alternative. This is very likely, because the intensive community surveillance programs will not be seen as inexpensive.

However, the debate should also present some of the negative implications of building more prisons, beyond the obvious financial issues. As has been argued in the criminological literature, once prisons are built, they are usually kept full—even if the baby bust should finally halt the rise in crime rates. The ladder of dispositions could simply shift in the opposite direction, with more and more of the less serious offenders going to prison. In the extreme, this could lead to the sentencing of all convicted felons and many misdemeanants to prison. While that would satisfy the hardest of hardliners, it would perpetuate the neglect of less expensive and possibly more effective alternatives. The United States is already the most punitive of Western nations, with nearly 440,000 adults in prison. This solution would drive that number even higher.

These programs would force offenders to be gainfully employed and functioning in the community, which could help them establish new and more positive life habits and thereby decrease recidivism. Such programs hold the promise of rehabilitating some serious criminals who would only become more hardened by the prison experience. Because they require no special facilities, ISPs could be easily dismantled if they were no longer needed. Despite the optimistic prospects, however, given current social trends, it is hard to imagine a time when there would be no appropriate candidates for intensive surveillance. New Jersey has allocated \$1 million to fund the first years of its ISP, which can handle 300 to 500 offenders. In making the public case for alternatives, proponents should compare that expenditure with the costs of building cells and maintaining an equal number of prisoners. Implementing ISPs does not necessarily require the quadrupling of probation resources. Valid risk-prediction models can be developed that will identify "low-risk" probationers needing minimal supervision, thus allowing more resources to be applied to high-risk individuals.

Rethinking the Nature and Function of Probation

Summary and traditional probation seem like the natural province of probation agencies. Since intensive surveillance would take place in the community, an argument could be made for having the probation agency handle it, too. However, we believe that ISPs should not be simply added on to existing probation functions. The criminal justice system must reconsider both the purpose and structure of probation agencies.

Probation presently supervises two-thirds of all convicted offenders, as well as handling PSIs, intake procedures, collections, and numerous other related matters. There is little doubt that probation is the major component in our country's system of sanctions, and it should be recognized and funded as such. However, increased funding alone will not solve today's problems—probation needs a new, formal, mandate that establishes its mission explicitly and recognizes the kinds of offenders it must deal with. In the absence of formal redefinition of the responsibilities of probation agencies, many probation officers are confused and unhappy about their proper roles (see Duffee, 1984). They do not know whether they should consider themselves counselors, caseworkers, service brokers, officers with law-enforcement powers, or some combination of these. Many of them find the supervisory role uncomfortable, while others would like even more policing powers.

If probation agencies are to administer the spectrum of alternatives to prison, they will definitely need both kinds of officers. The roles of

both will have to be clearly defined, as will the types of probationers they should be handling. Officers who will be given policing tasks will have to be recruited and trained differently from traditional probation officers. Further, given the kinds of probationers now supervised in large urban areas, these officers should be given stronger law-enforcement powers, wherever such powers are needed.

Establishing ISPs

The effectiveness of ISPs will depend on the ability of the system to resolve some very complex and controversial problems. The most fundamental challenge will be that of conceiving and designing programs. Although existing ISPs have some features in common, research has provided little information about the characteristics such programs must have, given the diverse clientele they will be handling.

Another major problem will be financing. Probation has historically been much less expensive than imprisonment. In California, it costs approximately \$14,000 per year to maintain one adult in state prison, but only \$300 per year to maintain an offender on probation (Fitzharris, 1979). However, ISPs will cost much more than traditional probation. By our calculations, intensive surveillance would cost \$2000 to \$5000 per offender, making it less expensive than imprisonment in most states, but about 10 times more expensive than traditional probation. Thus, if a substantial number of felons were placed under intensive supervision, the system's bill would immediately rise considerably. Where would the necessary funds come from? In 1983, the California legislature acted to permit charging the offender for a portion of the cost of probation supervision. In 1984, it passed other bills which allow charges for costs associated with PSIs and collecting restitution. These are all part of a new movement to make convicted offenders financially responsible for the costs associated with their trial and punishment. "User fees" are, in part, funding the New Jersey ISP.

Another problem would be program capacity. The 300 to 500 offenders participating in the New Jersey ISP represent less than 1 percent of California's probation population. Providing intensive community supervision for a reasonable percentage of California felons would present staggering logistical problems. Solving these problems would take time. In the interim, only a very small percentage of eligible felons could be accommodated. Thus, ISPs would not begin to take the pressure off the prisons and traditional probation programs for quite some time.

Staffing ISPs will be another challenge. Most ISPs use probation and parole staff whom they provide with some retraining. But with

California probation agencies having already suffered considerable staff cutbacks, it would not be advisable to drain more of their staff for new programs. Some of those who were laid off might welcome the chance to return to the system under this new rubric, but it is likely that most staff would have to be newly hired and extensively trained.

Assessing Risk Prediction and Sentencing Decisions

Rising felony crime rates and prison overcrowding have made risk prediction the central issue of the 1980s for criminal justice policy. The problem of using the available space most effectively to ensure public safety has spurred interest in—and debate over—the goals of punishment, just deserts, selective incapacitation, and the effectiveness of community corrections. If jurisdictions adopt a spectrum of alternative punishments, the system will have to improve not only risk prediction, but the ability to distinguish among risk levels.

Our analysis shows that PSIs and the courts have not done very well in predicting risk. This failure may stem in part from pressures to plea-bargain cases and the lack of prison space. However, using the best statistical models and a wealth of information on offenders, we could not predict recidivism with more than 70 percent accuracy. (Other recidivism-prediction research (e.g., Fischer, 1981) has produced similar results.)

Thus, with presently available information and methodologies, offender risk prediction probably cannot be improved dramatically. Although research must continue to strive for greater accuracy, it may be necessary to develop sentencing strategies that consider risk predictors within a "just deserts," or retribution model. Under such a model, the courts would base the prison/probation decision only on conviction offense and prior criminal history. They would then use characteristics strongly associated with recidivism to make decisions about sentence length and parole for prisoners, or type and length of community supervision for probationers.

These sentencing models do not raise the legal and ethical issues that attend many selective incapacitation models. By using the predictors secondarily, they implicitly recognize the fallibility of prediction. Moreover, they would be used only for sentencing convicted felons, many of whom automatically went to prison under old laws and old conditions. In all states, persons who commit the crimes considered in our study are still legally liable to prison.

Improving Information for Risk Prediction

The use of risk/needs instruments to classify offenders is undoubtedly the most popular of current efforts to structure the activities of probation organizations. Our findings and those of other studies indicate that risk prediction might be improved by access to different kinds of information. For example, criminal justice research has repeatedly shown a strong association between juvenile records and adult criminality. In particular, Rand's research on career criminals has established that the following information can be significant for assessing how seriously criminal an offender may be: early involvement in violent crime, age at first arrest, drug use, number of juvenile convictions and incarcerations, length of time between arrests, and family arrangements. Nevertheless, this information sometimes fails to appear either in an offender's record or in the PSI.

Risk prediction could also be improved by better understanding of some available offender information. At present, the courts may misinterpret the significance of some offender behavior. Our analysis has indicated that some factors that traditionally influence PSI recommendations have had little relation to outcomes, and some even have counterintuitive relations.

Probation was recommended on the PSI for 74 percent of the drug offenders in our sample—a higher proportion than for any other group. Yet drug offenders had to have much more serious records before they received prison sentences—five prior convictions, compared with one or two or more for other types of offenders.

However, it is also true that drug offenders had the lowest reconviction rates among our offender groups (37 percent versus 54 percent for property and 48 percent for violent offenders). This might suggest that the courts have a surer sense of drug offenders' seriousness than our analyses indicated. However, the drug offenders' "time to recidivate" differed in length and pattern from that of the violent and property offenders. The curves for violent and property offenders flattened out after about 27 months (if they had not returned to crime by then, they probably never would). In contrast, drug offenders recidivated at a nearly linear rate: For as long as we followed them up, a roughly equal percentage continued to have charges filed each month.

The regressions yielded other anomalous findings for drug offenders that also suggest misreadings of their risk potential. For property and violent offenders, no factors beyond conviction crime and the hard facts of their cases increased the accuracy of risk prediction very much, while for drug offenders, information in the PSI was significant. These findings, however, were paradoxical: Drug offenders had less likelihood

of new convictions when the PSI cited mitigating circumstances, which is hardly surprising; however, they were much more likely to have a violent crime conviction if they were *not* using hard drugs at the time of original arrest, they were unemployed, and the PSI recommended *probation*. It was also true that although all three offender groups were more likely to be reconvicted of the same crime they were originally convicted for, that tendency was least strong for drug offenders. They committed property crimes at almost as high a rate.

One might argue that these findings are statistical flukes or that drug offenders are a less homogeneous group than property and violent offenders. Indeed, previous Rand research suggests that the latter probably is true. However, it also suggests that the courts should not treat drug offenders as a group and assume that, because drug crimes are "victimless" crimes, drug offenders present less threat to public safety. Indeed, many drug offenders may be the most dangerous criminals society faces.

Chaiken and Chaiken (1982) have identified a group of offenders who "specialize" in robbery, assault, and drug dealing. These "violent predators" are characterized by simultaneous involvement in all three crimes, but they also commit other index crimes at extremely high rates. Within this group, the 10 percent who have the highest drug dealing rates make over 4,000 drug deals *each* per year. Given that frequency, they have a much higher probability of being arrested for drug dealing than for other crimes.

Although this group is infinitely more dangerous than other drug offenders, it is not surprising that courts cannot readily identify them. Most of them began committing violent crimes well before the age of 16, continued to be very criminally active during their teen years, had parole revoked, and spent considerable time in juvenile facilities. Since their median age is less than 23, many of them have no adult records, despite their phenomenal criminal activity. These offenders are clearly not candidates for ISPs—much less traditional probation. However, juvenile record information that would indicate this is the hardest kind of information for probation officers to get and is often the least reliable. There are no formal mechanisms for storing, retrieving, and sharing this information, largely because its confidentiality is strictly guarded by statute in most states (Petersilia, 1981).

This situation may help explain the relationship we found between PSI recommendations and drug probationers' likelihood of reconviction for violent crimes. A young offender who apparently has no prior record, was not using hard drugs at the time he was apprehended, and may have cited desperation caused by unemployment as a reason for his actions is likely to be recommended for probation. Since these

offenders characteristically commit assault and robbery, it is likely that, once on probation, they would commit these violent crimes.

This example is presented to illustrate the potential improvement in risk prediction that might be realized if the courts had access to more appropriate information and could interpret the information they do have more accurately. Overhauling the PSI would be a good beginning.

Making the PSI More Useful

There is a general feeling among judges, prosecutors, and probation officers in Los Angeles and Alameda counties that the quality of PSIs has deteriorated. This is hardly surprising: Probation officers in Los Angeles now often prepare over 10 PSIs per week—twice the number suggested by department standards. Moreover, in California, the PSI is primarily intended to establish seriousness of offense and to predict risk,¹ yet they often include information not directly relevant to either of these purposes.

California law currently requires that PSIs be prepared for all felony offenders who are eligible for probation and all those sentenced to state prison. Noneligible cases are referred at the court's discretion, as are misdemeanor cases. The probation officer is required to make a recommendation to the court on all cases investigated. Consequently, probation officers in Los Angeles County alone now prepare about 45,000 PSIs each year. This task consumes half of all probation resources, effectively reducing staff available for supervision.

With so many reports to prepare, probation officers often do not have time to obtain or verify criminal-records information. They must often rely on the offender's version of his criminal history. The Kevin Cooper case is a tragic illustration of the potential results. In June 1983, Kevin Cooper was placed in the minimum security section at Chino state prison in Chino, California. A short time later, he walked away from the facility. Three days later, he allegedly battered and stabbed to death two adults and two children at a ranch near the facility. Although Cooper had an extremely serious criminal record and was an escapee from a mental institution, the probation officers who prepared his PSI simply did not have enough time to get accurate prior record information or to double-check his claim that he was a minor offender.

¹The PSI, of course, serves other purposes as well. The Department of Corrections relies on the PSI for prison classification and placement; the Parole Board uses it to assess a prisoner's suitability for parole; and the Probation Department uses it for devising a supervision plan if the defendant is placed on probation.

The preparation of PSIs also consumes an inordinate amount of time and resources, because the reports contain much information that is no longer relevant to the situation or sentencing statutes. Prior to the adoption of determinate sentencing in California, the PSI influenced sentencing and parole decisions very heavily. However, under the determinate sentencing rule, the crime itself basically dictates sentence, so much of the PSI's information on aggravating and mitigating circumstances is no longer relevant for the sentencing decision. The same is true of parole decisions, since discretionary parole has basically been abolished for all offenders except those serving life sentences. Most important, sentencing statutes have moved away from a clinical emphasis on rehabilitation toward an emphasis on just deserts and risk prediction. The narrative portion of PSIs regularly includes information on education, marital history, military service, financial assets and obligations, physical health, etc. (Carter 1978).

Probation departments must take a systematic look at the PSI to make better use of their resources. With a spectrum of alternative sentences, some information on stability, marital and employment history, etc., should be collected, to enable the courts to distinguish between serious offenders who should be given intensive community supervision and those who could succeed on traditional probation. The PSI must be streamlined for other offenders to avoid compounding time and resource problems.

Such streamlining might be accomplished by selective use of the PSI to parallel sentence screening. The PSI could be severely truncated for those offenders who are definitely going to prison and those who will definitely get probation. In this way, the Department of Corrections could be supplied with appropriate information on which to base prison classification decisions, and probation departments could be given the information they need to assign probationers to the proper community supervision levels. This would enable probation officers to concentrate on obtaining and verifying information that establishes just deserts and predicts risk for the group in the middle.

RECOMMENDATIONS FOR POLICY AND RESEARCH

These conclusions and implications suggest a number of policy and research recommendations. These recommendations reflect possible rather than ideal solutions to the problems we have discussed. They recognize the fact that the system does not have and is not likely to acquire unlimited resources, nor are crime rates likely to decrease significantly.

Policy Recommendations

Most of our policy recommendations focus on redefining purposes, roles, and practices of the existing probation system.

- **The mission of probation and the responsibilities of probation agencies should be redefined, limited, and explicitly stated, by statute if necessary.**

Serious felons are crowding out the traditional probation population of first offenders and misdemeanor cases, and the system must explicitly recognize that probation's mission has changed from primarily rehabilitation to restrictive supervision. It must also implicitly recognize that change through revisions in the responsibilities and structure of probation agencies.

To compound all of this, California probation agencies have historically served as catchalls for any local tasks that could be tenuously related to their mission. For example, because probation agencies are charged with "prevention of delinquency," they have been given such disparate and demanding tasks as minor marriage consent, step-parent adoption, divorce custody, and conservatorship investigations; school attendance reviewing; day-care/school programs for "at risk" children; and juvenile record sealing. Because they must also supervise 80 percent of the corrections caseload, these additional tasks seriously undermine their total effectiveness.

Clearly, some agency has to perform these tasks, but California's probation agencies must make public safety their highest priority. The state should adopt a formal mission statement that establishes the following responsibilities: (1) to inform court decisions on the appropriate sanctions for convicted offenders; (2) to provide active supervision of juvenile and adult probationers; and (3) to broker available services and programs aimed at "socializing" offenders. In our opinion, any tasks that do not serve these purposes should not be assigned to probation agencies or should be given very low priority.

- **In response to the change in the probation population, the system should redefine the role and powers of probation officers.**

Probation officers cannot be expected to deal with felony probationers as they dealt with misdemeanor offenders. We are not recommending that probation officers abandon their rehabilitative and counseling roles with probationers who can respond to those roles. But for probationers who are active, serious criminals with high expected recidivism rates, we support the growing legal and policy trend toward quasi-policing roles for probation officers.

Probation and parole unions have frequently discussed the desirability of carrying firearms, having search and seizure powers, being able to impose house arrest, and having authority to revoke probation—before a victim is involved. Some or all of these powers may be essential to protect the officers themselves, enable them to secure evidence of crime or criminal activity, and minimize the risk to public safety. The U.S. Parole Commission has already adopted procedures for granting their officers some of these powers, and the felony probation population behaves increasingly like the parole population. However, none of these powers should be granted without strong and specific rules governing their use—nor should they be given to officers who are not specifically trained, or personally suited, to handle them responsibly.

- **The risk/needs assessment scales promoted by the National Institute of Corrections and being adopted by probation departments nationwide should be strongly promoted. Fairness, equity, and predictability are all enhanced by the introduction of such formal instruments.**

Probation agencies nationwide have been under growing pressures to account for the funds they expend. They are responding by structuring and formally defining their activities, improving their record-keeping, and working to improve relationships with their constituencies (especially funding bodies).

The Wisconsin-based needs assessment scale is the best example of the way in which probation agencies have gone about formally structuring their activities.² This scale was designed to “assess an offender’s propensity for further unlawful or rule violating behavior.” The instrument scores offenders on the basis of their criminal record, employment, criminal offense, and so forth. In addition, the probation officer gives his impression of the client’s need for services. Scores in all of these categories are summed to produce a total score, which determines placement at one of several supervision levels. Each supervision level (i.e., intensive, medium, minimum) has a corresponding level of liberty-restriction, as well as offender-to-officer contact requirements. Many probation agencies have now jumped on the classification bandwagon, in some cases as a result of external funding provided by the National Institute of Corrections. We strongly support such efforts and believe that they reaffirm probation’s commitment to both surveillance/supervision and offender service.

²For detailed information on the Wisconsin case classification system, see National Institute of Corrections (1983).

- **In most cases, the PSI should aim primarily at establishing just deserts and predicting risk and should contain only that information which best serves these purposes.**

In Los Angeles and Alameda counties, the PSI appears to have lost some of its credibility, and judges frequently fail to follow its recommendations. Our analysis showed that this disregard was not necessarily cavalier: The PSIs for our sample did not do a very good job of predicting recidivism. In part, this failure results from the unrealistically heavy workloads of the probation staff. However, the problem is compounded by the fact that the PSIs still collect a lot of information that might be pertinent to rehabilitation but does not help predict recidivism.

We recommend, first, that the PSI be used selectively. The PSI could be severely truncated for those offenders who are definitely going to prison and for those who will definitely get probation. Probation officers could then concentrate on getting better information that establishes just deserts and predicts risk for the group in the middle. Second, the system should try to overcome obstacles that prevent access to juvenile records. Research has repeatedly shown that early criminal activity is among the best predictors of recidivism. It should routinely be included in the PSI.³ Third, all items should be rigorously validated.

We also recommend that probation agencies might consider having private contractors conduct the PSI.⁴

- **The system should not regard drug offenders as a homogeneous group of less serious offenders.**

Our analyses repeatedly gave anomalous results for drug offenders, which suggests that drug offenders are not a homogeneous group. The California Rehabilitation Center was dismantled, in part because it was recognized that drug offenders are evidently no different from the rest of the criminal population—that is, most criminals use drugs and a large portion of drug addicts are criminals. This action meant that the courts had no alternative for drug offenders other than prison or probation. As a result, the courts have routinely given drug offenders probation—even those who have up to four prior convictions. Unfortunately, the worst offenders’ youth and typical lack of adult (or

³The important items are date of first arrest, nature of juvenile criminal activity, juvenile incarcerations, drug use, juvenile parole revocations, and types, dates, and dispositions of each offense.

⁴District Attorneys have voiced opposition to private contractors preparing the PSI because of restrictions on public access to court-related materials.

serious adult) criminal records make them appear especially promising candidates for probation. But once on probation, they are especially likely to become criminally active again and to commit violent crimes. The threat they pose reinforces our recommendation that every effort be made to obtain accurate and complete juvenile records for the PSI. Those records provide the strongest clue to the identity of the assaulter-robber-dealers who have been characterized as "violent predators."

- **State criminal justice systems should develop intermediate punishment alternatives to prison, even if they do not yet have severe prison overcrowding problems.**

At the beginning of 1984, prison facilities in California and 31 other states were under court order as a result of overcrowding. We have argued that the root of this problem is the failure to develop punitive sanctions other than incarceration. States that have no such alternatives in place may find themselves with the same either/or sentencing dilemma that plagues the California system. When there is no longer enough prison space, serious offenders have to be given probation—the kind of "nonpunishment" ordered in some California counties.

Once a prison crisis has developed, having alternatives in place permits the system to gain the maximum incapacitation effects from available prison space. Even in the absence of crisis, such programs might be preferable to prison for some offenders: Research has repeatedly indicated that prison has a brutalizing rather than a deterrent effect on many inmates. ISPs are more costly than probation, but those costs have to be weighed against the risks that felony probation poses for public safety. Moreover, the costs could be offset by imposing the kinds of user fees on offenders that California has recently initiated.

Research Recommendations

Future research should strengthen or qualify these policy recommendations by addressing the following questions.

- **Exactly how much, and in what ways, does prison overcrowding affect the criminal justice system's treatment of offenders?**

Throughout this report, we have assumed that the courts consider the effect of prison overcrowding in making sentencing decisions. However, we have no systematic or explicit evidence of this. Nor do we know how prison overcrowding might affect the treatment of

offenders all the way down the line. For example, does the awareness that serious offenders will probably get probation keep police from arresting some suspects or from investing the time to obtain more evidence against those who have charges filed? Does it induce prosecutors to accept pleas rather than pushing for trial in most cases? How much does the prison crisis really influence the prison/probation decision—especially for certain types of offenders? Judge Ronald M. George, who supervises the Los Angeles criminal court division, recently asserted: "It gets my ire up when I think of anybody letting whatever sentence (or bail) he's imposed be affected by space availability. That's letting the tail wag the dog" (*Los Angeles Times*, March 25, 1984). Finally, does it affect the way corrections staff in prisons treat offenders? Do they award good-time credits more easily? Do they loosen parole standards?

- **Who uses the PSI and for what purposes? How should it, therefore, be redesigned?**

A more comprehensive study of the PSI is merited, especially in light of the resources used in its preparation. This research should examine a large sample of PSIs (preferably from more than one state) at all stages, from preparation all the way through the system. It should establish exactly what information the PSI typically contains, where this information comes from, how accurate it is, and what kinds of skills are required to prepare it effectively.

The study should determine who actually uses the PSI besides judges. Does it influence prosecutors' decisions when offenders are arrested for new crimes? Do prison officials use it to make in-prison custody determinations? Does it affect parole decisions, and how? We know that in states that do not have determinate sentencing, it influences type of sentence considerably; and in states that have parole boards, it is the focus of parole hearings. However, in states that have determinate sentencing and limited parole mechanisms, its role in sentencing and parole decisions is much less clear. Information is needed to make the PSI meet the demands placed on it, to make its preparation cost efficient, and to improve its quality.

- **How can the system develop the ability to distinguish between simple drug offenders and "violent predators" (assaulter-robber-dealers)?**

Once an offender is *convicted* of a drug offense and is therefore liable to prison by law, the courts could legitimately allow juvenile record information to influence the sentencing decision. Since lack of

prior adult record is typical of violent predators, juvenile record information is vital to the distinction between them and simple drug offenders. The problems associated with the quality and availability of this material should be studied. Moreover, because of those problems, efforts should also be undertaken to devise other possible means of making the distinction.

- **What would an optimum system of intermediate punishments look like?**

Research is needed to identify and study the range of intermediate punishments that have been or are being tried here and abroad. These programs have not been systematically studied as options for relieving prison overcrowding, so we do not know exactly how they would fit into a spectrum of alternatives primarily intended for that purpose. A descriptive study of these programs could document their experiences, establish what kinds of offenders they seem most appropriate for, assess their costs and political feasibility, and evaluate their immediate and long-range effects on criminal behavior. With this kind of information, it might also be possible to develop a model of sanctions that would prove most effective and efficient within the financial and political constraints faced by most states.

- **What are the attitudes of chief probation officers toward probation's mission, particularly the surveillance/supervision versus treatment/rehabilitation issue?**

Numerous chief probation officers reviewed drafts of this report. It was apparent from the reviews and ensuing discussions that probation professionals have not reached a consensus on the role of probation in the context of criminal justice sanctions. Some chiefs actively supported moving probation toward the surveillance function. Others vehemently opposed even the suggestion that surveillance activities should be conducted, saying that was a police function. Others said they could accomplish both surveillance and treatment functions if they were given adequate resources. These chiefs are intelligent, energetic people with extensive probation experience. Yet probation seems to be on the verge of "repackaging" itself to meet the public's demand that it become more rigorous, punitive, and more restricting. It would be advisable to survey the opinions of those who operate probation agencies before continuing in this direction. Without a consensus, repackaging probation to satisfy outside pressures may doom the effort from the outset.

- **How do the recidivism rates of felons sentenced to probation compare with those of "matched" offenders who were sentenced to prison?**

Underlying many conclusions stated in this report is an assumption that sanctions other than probation could have produced better results. We do not recommend that all felony probationers be sentenced to prison in the future, because we suspect that the people who were "like" our probationers but were sentenced to prison will not do any better when they are released to the community than our probationers did. A critical piece of missing information is how the recidivism rates of those sentenced to prison compare with those who received probation. This is the research issue the authors of this report are now pursuing under a continuation grant provided by the National Institute of Justice. Our statewide sentencing sample contained hundreds of people who appeared to be "missentenced," and we are following up approximately 500 of the prisoners who statistically matched our probationers. These "matched" prisoners were, on the average, released more than two years ago. Thus, for many of the Los Angeles and Alameda County probationers we studied, we were able to identify a statistical match (i.e., a person with the same criminal and personal background) who was sentenced to prison. We will now collect and analyze recidivism information for those released prisoners. We can then address such important questions as, Did their prison terms aggravate or suppress their criminal careers? In which offender groups (e.g., age, offense, race) were recidivism rates increased or decreased?

When we began this study, our basic purpose was simply to gain a better understanding of felony probation. Circumstances have recently made criminal justice policymakers and administrators aware that the old assumptions about probation, its responsibilities, and its need for resources may be wide of the mark. This study has shown how very wide they are. Probation agencies often supervise serious, high-risk felons, with scanty resources to do so. We believe that our data and analyses have indicated that granting felons probation presents serious enough risks for public safety that the criminal justice system must consider sentencing alternatives that provide an appropriate form of punishment, decrease the risks to public safety, and can be implemented at a reasonable cost. Intensive community-based surveillance appears to be the most promising candidate. The criminal justice system should give its immediate attention to the prospects for and problems of such programs.

Appendix A

DATA ELEMENTS IN THE STATEWIDE CALIFORNIA BOARD OF PRISON TERMS (CBPT) DATABASE

Juvenile History

Date of birth
Number of juvenile convictions
Date of first juvenile conviction
Number of juvenile state/federal incarcerations
Date of first state/federal incarceration
Number of prior violent juvenile incarcerations

Adult History

Number or prior adult convictions
Date of first adult conviction
Number or prior violent convictions
Number of prior violent prison terms
Number of prior adult probation terms
Any prior adult probation revocations?
Number of jail sentences, 90 days or more
Number of adult state/federal prison terms
Date of first adult state/federal prison term
Number of escapes as adult
Number of prior MDSO commitments
Number of prior CRC commitments
Times paroled state/federal prison terms
Date of last felony conviction
Found not guilty by reason of insanity?
Number of counts charged
Charging information (enhancements, priors)

Personal Information

Sex
Race
Citizen
Married?
Separated/divorced?
Living situation

Supportive family relationships?
 Educational level
 Vocational/technical/apprenticeship training?
 Ever gainfully employed?
 Primary occupation
 Employed at time of offense?
 Length of time employed prior to offense
 Length of time since last employment
 Major source of income
 Monthly income level
 Mental faculties
 Longest commitment to mental institution
 Recent release from mental institution
 Current outpatient mental health treatment?
 Alcohol/marijuana/heroin/other drug addiction
 Willing to undergo treatment?
 What drugs involved in current offense

Offense Information

Date of earliest present offense
 Recent release prior to earliest present offense
 Number of prior nonviolent prison terms charged
 Number of prior violent prison terms charged
 Number of offenses involved weapons
 Offender's weapon usage
 Nature of offender's weapon
 Weapon obtained by offender at scene of crime?
 Number of accomplices
 Accomplices weapon usage
 Nature of accomplice's weapon
 Was weapon obtained by accomplice?
 Number of separate events for which convicted
 Number of different times for crimes for which convicted
 Number of different places for crimes for which convicted
 Number of different victims, all convicted crimes
 Resident of county where offense(s) occurred?
 Length of residence
 Type of defense counsel
 Status at time of offense
 Was offender released during court proceedings?
 Guilty plea with negotiated disposition?
 Other known criminal charges pending?
 Nonlife ISL counts/commitments?

Life term ISL commitments?
 Fine imposed as part of judgement?
 Referral to probation officer waived?
 Disruptive behavior in court?
 Number of personal victims (detailed)
 Did offender inflict injury?
 Extent of loss
 Sex of victim
 Race of victim
 Was victim vulnerable?
 Was victim related to offender?
 Was victim personally known by offender?
 Extent of injury
 Number of business victims
 Business victim information
 Employer?
 Known personally?
 Extent of loss
 Did offender make restitution to any victim?
 Extent of restitution

Legal Data

Total number of counts convicted(detailed)
 Number of violent prior prison terms
 Number of prior non-violent prison terms found and charged
 Enhancements imposed, violent prior prison terms
 Enhancements imposed, nonviolent prior prison terms
 Information about "CS" relationships
 Total prison term imposed
 Presentence credits granted

Additional Items Coded Only for Probationers

How much jail time was included as a condition of probation?
 Did the PSI recommend probation?
 Specific factors for and against probation (e.g., age, education, health, family)
 Did the PSI indicate that the defendant is in danger of addiction to, or abuse of, alcohol or drugs?
 Did the PSI recommend probation under P.C. Sec. 1202.5 (restitution required as a conviction of probation granted to person convicted of vehicle theft)?
 Did the PSI recommend probation under rule 415 (criteria affecting probation in unusual circumstances)?

Were aggravating circumstances cited in PSI?
 Were mitigating factors cited by the PSI? Which mitigating factors?
 Was probation granted for any reason other than those found in
 PC Sec. 1203(b), PC Sec. 1203(e) or PC Sec. 1202.5?

Appendix B

CHARACTERISTICS OF PROBATIONERS AND PRISONERS IN THE STATEWIDE SAMPLE

Characteristic	Probationers (percent)	Prisoners (percent)
Conviction offense		
Assault	8	8
Robbery	8	32
Burglary	37	33
Theft	32	17
Forgery	4	3
Drugs	11	7
Age at arrest		
Under 21	27	12
Age 21-25	33	36
Age 26-30	18	24
Age over 30	20	28
Unknown	2	0
Race/ethnicity		
White	37	33
Hispanic	25	28
Black	25	37
Other	2	2
Unknown	11	0
Employed at arrest	38	33
Educational level		
<12 years	47	48
12 years	24	29
>12 years	15	15
Unknown	14	8
Conviction counts		
One	95	63
Two	4	22
Three or more	1	15

Characteristic	Probationers (percent)	Prisoners (percent)
Adult prior convictions		
None	32	14
One	18	13
Two to four	23	32
Five or more	17	41
Unknown	10	0
Adult prior incarcerations		
None	80	61
One	7	23
Two or more	4	16
Unknown	9	0
Juvenile prior convictions		
None	61	53
One	12	21
Two or more	17	26
Unknown	10	0
Juvenile prior incarcerations		
None	79	67
One	7	21
Two or more	4	11
Unknown	10	1
Status at arrest		
Free	57	36
On juvenile probation	1	0
On adult probation	26	33
On juvenile parole	3	7
On adult parole	4	22
Incarcerated/escaped	0	1
Unknown	9	1
Victim information		
Victim seriously injured	5	9
Victim known/related	17	13
Weapon information		
Armed with gun	6	24
Armed with other weapon	10	17
Weapon used	12	36

Characteristic	Probationers (percent)	Prisoners (percent)
Drugs and alcohol		
Under influence/alcohol	7	6
Under influence/drugs	2	3
Alcoholic	5	5
Drug addict	4	15
Drugs involved in offense	13	11
Process variables		
Retained private attorney	5	1
Public defender appointed	62	61
Went to trial	3	14
Obtained pretrial release	62	28
Willing to accept drug treatment	11	6

Appendix C

**CHARACTERISTICS OF RECIDIVISTS
IN THE LOS ANGELES AND ALAMEDA
COUNTY PROBATION SUBSAMPLE**

Characteristic	Rearrested (percent) ^a	Reconvicted (percent) ^b	Reconvicted for Violent Offense (percent) ^c
Juvenile convictions			
none	53	44	13
one	56	51	20
2+	80	79	37
Adult convictions			
none	45	41	14
one	65	48	11
2-3	62	57	28
4+	67	63	21
Probation revocations			
none	56	49	17
1 or more	70	62	19
Income			
none	59	56	17
some	55	42	19
Prison plus jail sentence			
no	40	38	12
yes	60	53	18
Hard drug use/past use			
no	51	45	14
yes	64	56	21
Present use of alcohol			
no	57	51	19
yes	58	51	17
Sentence plea-bargained			
no	57	51	17
yes	59	51	20

Characteristic	Rearrested (percent) ^a	Reconvicted (percent) ^b	Reconvicted for Violent Offense (percent) ^c
PSI recommended probation			
no	61	56	21
yes	56	48	16
Aggravated factors cited			
none	51	38	10
one	52	46	17
2	62	56	12
3	56	55	22
4+	73	64	34
Mitigating factors cited			
no	65	58	21
yes	51	45	14
Living situation			
other	56	51	18
spouse/children	45	40	15
parents	69	59	18
Age			
under 21	60	56	19
21-25	64	51	16
26-30	48	49	22
over 30	56	47	16
Education			
under 10	54	48	12
10-11	61	59	21
12	67	50	19
12+	43	37	18
Race			
other	52	40	12
Hispanic	55	52	14
black	68	61	28
All cases	65	51	18

^aPercentage of the persons with this characteristic who were rearrested.

^bPercentage of the persons with this characteristic who were reconvicted.

^cPercentage of the persons with this characteristic who were reconvicted of a violent crime.

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