

ADULT PROBATION AND COMMUNITY CORRECTIONS

IN TEXAS:

A MASTER PLAN

1977

VOLUME ONE:

OVERVIEW-FINDINGS

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Adult Probation &
Community Corrections in Texas

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Volume I

Overview & Survey Results

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Adult Probation Master Plan

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Texas Employment Commission

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Texas Police Chiefs Association

Texas Rehabilitation Commission

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FOREWORD

The correctional process in the U.S. today is called upon to bear the brunt of society's failures to protect life, liberty, and property, in fact, to preserve the integrity and the values of our society. At the same time, with phenomenal expenditures of money devoted to criminal justice the public is rightly demanding greater accountability over the intelligent use of those funds.

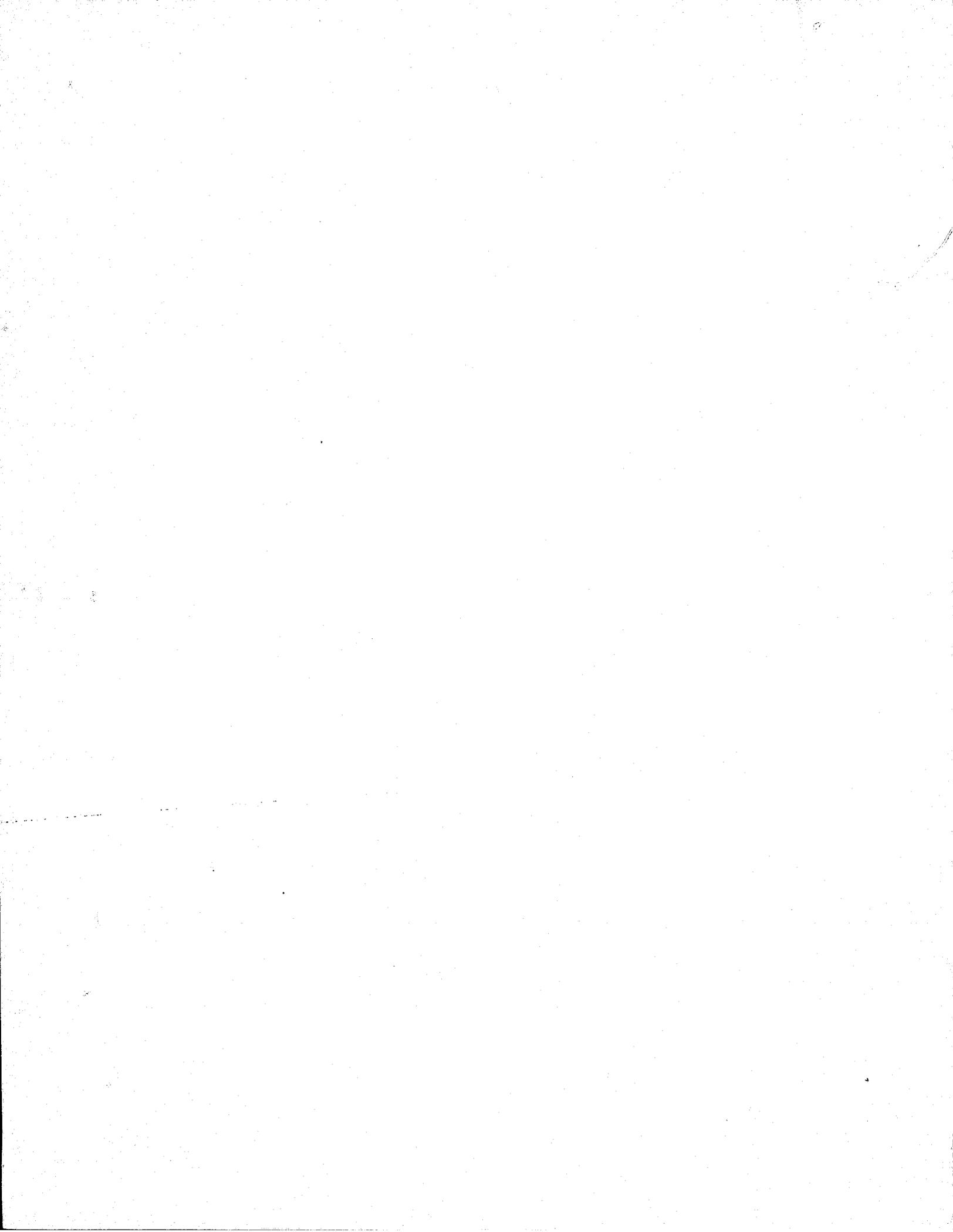
Many have questioned our habit of referring to corrections, and criminal justice generally, as a system--not merely because of administrative disjointedness of the various "parts," but also because of division and conflict within the "system" over the very purposes and meaning of corrections. How can we become accountable without a clear consensus and understanding?

The aims of restoring the integrity of our social fabric and of administering equitable justice clearly require the conception of a system, consistent within itself and coordinated in its efforts. Hence the recent emphasis of public expenditures on behalf of better planning for criminal justice to permit an integrated approach for corrections and to provide guidelines for efficient use of public monies. Long called-for by professionals and thinkers in the field, the Law Enforcement Assistance Administration (L.E.A.A.) responded by devoting dollars to every state planning agency. Thus each state has been given responsibility

for tailoring a long-range, coordinated, realistic plan suited to its needs and abilities for the improvement of correctional services, from the court stages, through probation, incarceration, and supervised release from prison. This project, the Adult Probation/Community-Based Corrections Master Plan, is one of four components which will be integrated into an Adult Corrections Plan for the State of Texas.







Purpose of the Project

In 1975 the Governor's Executive Committee on Texas's Standards and Goals published its finding on all phases of the criminal justice system in Texas. Adult probation received criticism from the committee because services are not available in each county or judicial district, and because statewide there is little uniformity to the quality or practice of probation. Moreover, as the governor's staff expressed it, "all possibilities for delivery of service to the offender have not been explored in the community."

(L.E.A.A. Grant Application)

The purpose of the Adult Probation/Community-Based Corrections Master Plan, then, is to further explore all such "possibilities for delivery of services to the offender" in the community.¹ The ultimate aim of full "delivery of services" by probation, indeed by all correctional programs, is to reduce crime and recidivism, and to protect thereby the integrity of our society. This component of the Texas Corrections Plan will examine the contribution community-based corrections is able to make towards this aim, realizing that reform of but one part of the criminal justice system will not solve the many problems of the whole.

According to a very recent report by the Comptroller General to Congress, probation is the most frequent sentence levied in the United States.² To probation goes the major portion of public money, time and manpower exerted towards

community-based corrections; and probation will, therefore, constitute the major focus of the plan. But the plan will also address alternative programs at the community level which affect the work of the courts: pretrial release, diversion, and work release from local institutions. Parole, the community correctional function at the other end of a prison sentence, has been treated in an independent study undertaken by the State Board of Pardons and Parole. In addition the Texas Commission on Jail Standards and the Texas Department of Corrections have been mandated to address the needs of state and local institutions. This report will recognize the interface between community programs and these other phases of corrections. Moreover, every effort has been made to address problems and shape recommendations specific to probation/community corrections in their larger context of the correctional "body politic" and the criminal justice process as a whole.

The Master Plan will document and analyze existing practices, identifying gaps in services, and recommending remedies for both short and long term needs. It will examine the premises supporting probation and community-based corrections. Various professional standards and goals for the organization, operation and performance of these programs will be used to prepare detailed recommendations. The object is to provide a document that can be readily used by probation personnel, local county officials, regional

planners, the judiciary, legislative and executive branches of state government, all correctional service agencies, and concerned citizens.

As a reference manual this plan will be useful in several ways. It will:

- (1) provide comprehensive data on the state of correction practices today in Texas;
- (2) share information on recent research and thinking about corrections in the community;
- (3) study exemplary projects that could be adapted by other communities or implemented within existing agencies; and
- (4) indicate needed revisions in statutory and/or administrative authority over probation and community corrections.

Outline of the Plan

The plan will be presented in three separate volumes. This first will encompass an introduction to probation and the philosophy of community-based corrections. The project's methodology will be explained. A history of adult probation in Texas will cover legislative changes and landmark court cases that have shaped practices. Finally, a picture of probation and other community programs will be drawn from the results of a field survey of criminal justice personnel and officials.

The second volume will take up an analysis of problems which may be sorted into three categories: programming and services, administration, and financing. Probation, by far the most traditional, if not the most important community correctional function, will be addressed first. Facets affecting the excellence of probation operations and discussed at length are:

- (1) sentencing and court processes;
- (2) casework and services (responsibilities and workloads);
- (3) manpower (qualifications and training, compensation, extended resources);
- (4) facilities and equipment;
- (5) enforcement of probation provisions; and
- (6) rights of the probationer.

Programming, administration, and financing for other community programs will comprise the second part of Volume 2. Focus will be on pretrial release, diversion programs, and on work release from local facilities, examining those facets necessary to their effective performance.

Volume 3 will bring together the recommendations precipitated by our analysis of problems and issues in Volume 2. It will summarize findings and recommendations, offer a sequenced implementation plan involving short and long range projections, analyze attendant costs, and provide directions for legislation and/or administrative action.

Community-Based Corrections: Definitions, Problems and Background

This report will define a comprehensive plan for the improvement of community-based adult correctional services, and particularly probation, throughout the state of Texas. In defining our subject matter it will be important to address, if only briefly, its evolution both in philosophy and in practice. Such an understanding will help us to assess the full meaning of what has been achieved in this field in recent years; to sort out controversies over "what, if anything, works"; and to weigh our recommendations more intelligently.

The concept of correcting offenders within their own community rather than displacing and confining them is not a novel one. Since at least the 15th century, English common law has used financial sanctions, public humiliation (the stocks, pillories, and other corporal penalties), and even religious penalties to deter crime, reprove the offender, enforce the law, and exact a cost for its transgression.³ Yet punishment was largely meted out in harsh extremes and the capital penalty applied to many crimes, until the reforms of the nineteenth century.

Our modern practice of community corrections, especially probation, first evolved as a departure from the relatively modern sanction of confinement in prison: it grew out of

disillusionment over prisons' failure to live up to their reformatory ideals. The concept of extended confinement as a criminal sentence was first proposed in America around the 1780's.⁴ It was proposed as a salutary reformatory effort, as a compromise between extremes of leniency and harshness characterizing the colonial system of law enforcement, and as a far more humane measure than capital punishment. The development of the prison concept receives sound documentation in a background paper in the recent report of the 20th Century Fund Task Force on Criminal Sentencing, Fair and Certain Punishment.⁵ This volume also describes the historical evolution of our present model for criminal sentencing from a philosophy built around punishment to one built around rehabilitation. According to author and jurist Alan Dershowitz, prison was suited to the rehabilitative model as it was first envisioned. We operate, that is, we sentence and "correct" upon this model today--although many have begun to distrust its very premises, and many still cling to the rhetoric of retribution.

Modern probation, too, is premised upon the rehabilitation of the offender. Our experiences of prisons throughout the nineteenth century demonstrated the need for an alternative, yet the suspended sentence alone was inadequate. In this atmosphere probation originated.

Probation is a sentence under which a convicted individual may be released into the community through suspension of the

imposition (in some jurisdictions, the execution) of sentence. The probationer remains subject to the supervision and authority of the court, meeting those requirements of behavior which it may establish. Our probation has its roots in such English common law expedients as the judicial reprieve, the release of an offender on his own recognizance, provision "filing" of a case, the benefit of clergy and other legal devices for suspending either the imposition or execution of a sentence.⁶

The founding of probation is usually traced back to a courtroom in Boston, Massachusetts where in 1841 one John Augustus, a bootmaker, volunteered to go bail for a drunkard who begged clemency from the court. Through Augustus's intercession this was granted, and with his help the accused satisfied the terms of the court through a brief "probation" period (as the bootmaker himself termed it). The same measure proved effective with others whom Augustus charitably aided. Since that informal, voluntary gesture was first recorded, the concept of probation has been institutionalized, professionalized, and expanded to embrace the broadest rehabilitative ideals.

Massachusetts was the first state to incorporate the probation sentence in its statutes in 1878. In 1909 the National Probation Association incorporated, and by 1925 thirty states as well as the federal system had adopted adult probation laws.⁷ Texas's first probation law was adopted in 1947.⁸

The practice of probation has grown hand in hand with recognition that our "rehabilitative" prisons serve often to intensify the offender's poverty of resources and fragmentation from society, and that the costs of imprisonment are high to offender and taxpayer alike. Rehabilitation and reintegration have come to be seen as belonging more properly, and perhaps more effectively, to the community itself.

Probation has led the way toward that "shift of correctional emphasis from institutions to community programs" labeled top priority by the National Advisory Commission on Criminal Justice Standards and Goals in 1972.⁹ Numerous distinguished panels of practitioners and planners, assembled before and since that year to study the direction we must give to corrections, have reiterated this belief in the importance of community corrections. Today this includes not only probation but an array of other programs--pretrial release and personal bond, diversion and work release most prominent among others. Community corrections is made possible by employing a multitude of community resources and services--volunteers, alcohol and drug treatment programs, remedial education and manpower training, casework and counselling, among others. It implies a greater breadth of possible sanctions, and greater flexibility in dealing with the accused and/or guilty. It also implies greater interdependence among the many all-too-often competing elements of our service economy.

Summary of Issues Addressed

Justice implies balance, and criminal justice involves a difficult, artful balance between numberless, intangible forces: the rights of individuals as opposed to the rights of the society as a whole; the need to temper justice with mercy without diluting the strength of the law; the claims of victims deserving restitution and the impotence of a large portion of offenders in a competitive job market; the requirements of due process against the pressures for unclogging burdensome court dockets and providing speedier trial; and so forth. Some of the issues we address in this report arise from a conflict in philosophical stances: for instance, sentencing for the sake of punishment or expediency, versus sentencing for the sake of rehabilitation. Other issues arise from pragmatic or structural limitations and conflicts: shall we spend our money on manpower for diversion or for public education? to what extent is standardization of probation practices possible and desirable? how may a system suitable for metropolitan areas be tailored to a rural one?

The Texas Adult Probation Manual describes probation as a "delicate phase" in the correctional process:

It is the testing ground where it can be determined whether or not the individual can deal with the pressures of normal social existence. Similarly it is a period wherein society, through courts, is allowed to determine whether its welfare will be enhanced or endangered by the presence of the offender.¹⁰

Thus, two functions probation and any other correctional effort

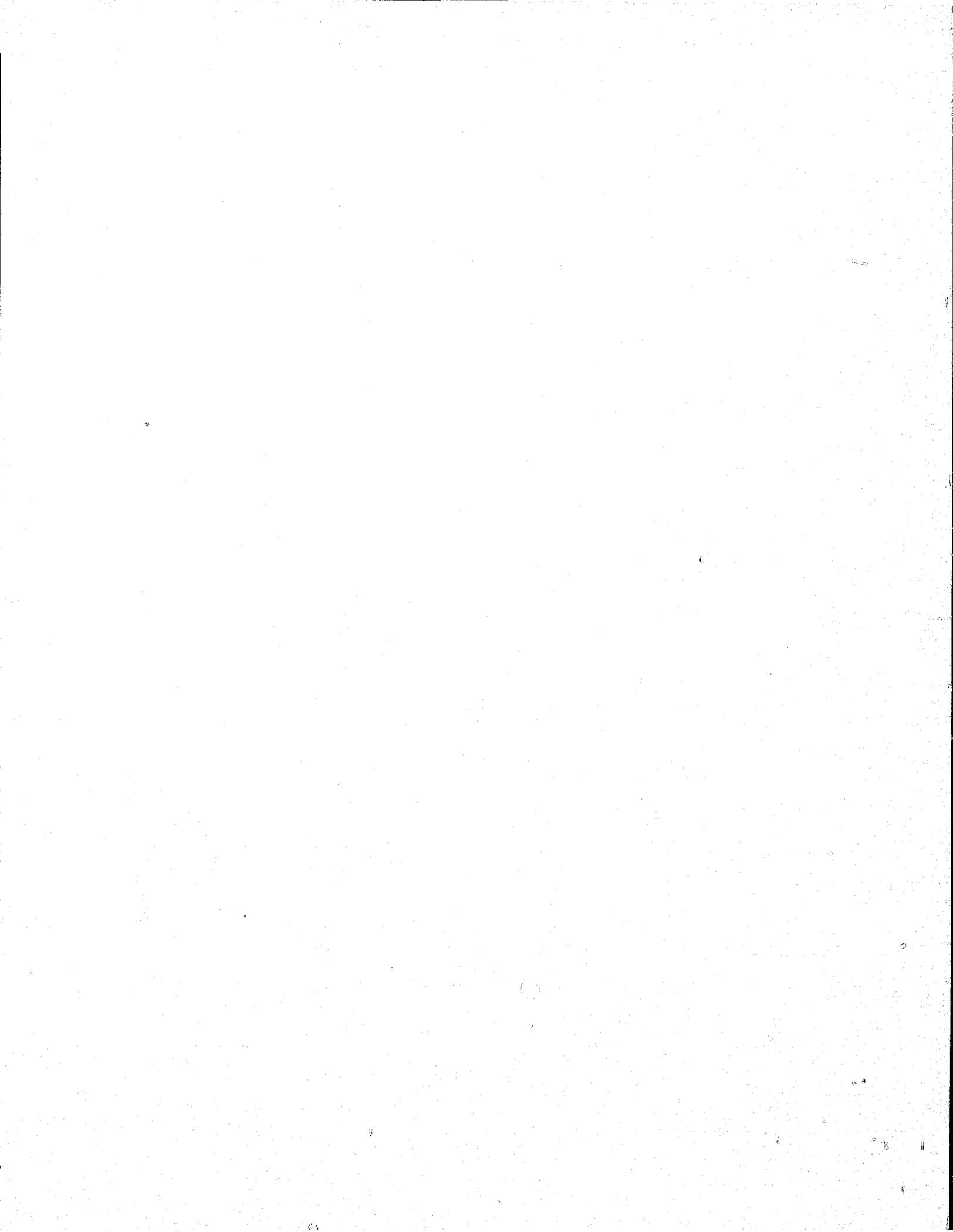
must undertake are: 1) the rehabilitation of the individual; and 2) the protection of society. For better or for worse, the science of human behavior remains sufficiently mysterious that some guesswork plays in deciding to risk the protection of society in order to keep an offender in the community where most of the truly rehabilitative opportunities exist. It is possible to reduce the margin of guesswork involved, however, through screening of less serious cases, and through a more rational sentencing structure than we now possess. Rational, discreet sentencing is the first key to good probation programs.

A second key is public education. Community attitudes towards the criminal justice system are confused, misinformed, and too often hostile. Perhaps too much has been left up to the professionals. Without an intelligent community participating in and monitoring criminal justice activities there will be little check and balance to the use of public monies to best advantage. Most citizens derive their opinions about corrections from sensational journalism arriving at facile conclusions, capitalizing on glaring failures but overlooking those who have profited by the supervision and services of agencies in the community. In view of the growing evidence of crime over the past two decades, the public's frustration is understandable. If more money is required, the public should know why.

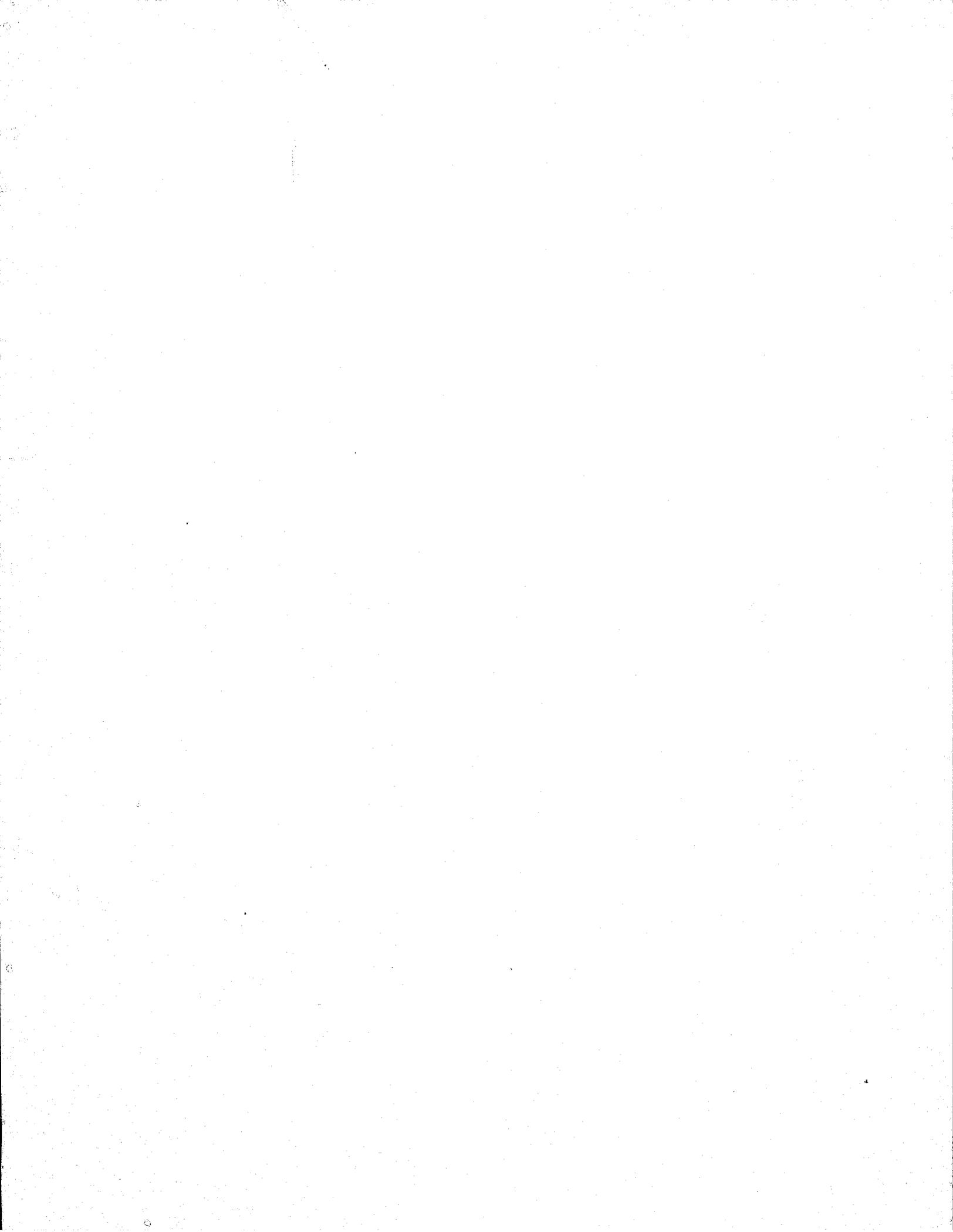
Professionals have added to the public's confusion by their own failure to agree on the right premises or right practices for corrections and the courts. Competition is intense for local, state and national dollars to support a system that is undernourished all around. Much needs to be done to effect a healthier cooperation among the parts of the system which now feel at odds with one another, yet whose basic goal is the same: to protect the integrity and dignity of our society.

FOOTNOTES TO CHAPTER ONE

1. L.E.A.A. Grant Application #MP-74-E02-3546, 11/26/75.
2. Report to the Congress by the Comptroller General of the United States, State and County Probation: Systems in Crisis (Washington, D.C., 1976), p. 168.
3. Charles L. Newman, Sourcebook on Probation, Parole and Pardons (Springfield, Thomas, 1958), p. 49.
4. See National Council on Crime & Delinquency, "Corrections in the United States: a Survey for the President's Commission on Law Enforcement and Administration of Justice," Crime & Delinquency, 13:1 (January 1967), pp. 185-187.
5. Twentieth Century Fund Task Force on Criminal Sentencing, Fair and Certain Punishment, with background paper by Alan M. Dershowitz (New York, McGraw Hill, 1976), p. 142.
6. Newman, p. 49.
7. Victor H. Evjen, "The Federal Probation System: The Struggle to Achieve It and Its First 25 years," Federal Probation (June 1975), p. 3.
8. Acts 1947, 50th Legislature, p. 1049, (Article 581d, Vernon's Ann. C.C.P.).
9. National Advisory Commission on Criminal Justice Standards and Goals, A National Strategy to Reduce Crime (Washington, D.C., 1973), p. 195.
10. Texas Adult Probation Manual Task Force, Texas Adult Probation Manual, Texas Center for the Judiciary, Austin (1975), p. I-2.







The development of a sound, comprehensive plan for the improvement of probation and community correctional services throughout a state as vast as Texas in its resources, geography and diversities has been the work of many minds and forces. Judges, probation officers, attorneys, law enforcement officers, planners, and scholars have participated in, supported and informed this effort. The present chapter will describe the scope of research and planning, and the operations and administration of the Adult Probation Master Plan project.

Four successive tasks were undertaken in the planning stages:

- (1) we identified existing probation systems and resources;
- (2) we conceived an "ideal system" towards which to direct our guidelines and plans;
- (3) we then identified priorities, developed strategies to meet our objectives and analyzed practical constraints which would be imposed on realizing these ideals; and
- (4) we synthesized our findings into a model system.

These four tasks were suggested and outlined by the staff of the Criminal Justice Division, Governor's Office, in whom are vested responsibility for supervision of the Texas Corrections Master Plan.

The Criminal Justice Division awarded authority over the development of this section of the Corrections Plan to the Texas Center for the Judiciary in October, 1975. The Center, which is an activity of the State Bar's Judicial Section and is governed by the Section's Continuing Legal Education Committee, coordinates and develops continuing education opportunities--schools, conferences, training manuals and so forth--for Texas judges and support personnel. Probation in this state is administered as a function of the district and county courts exercising criminal jurisdiction under Article 42.12, Texas Code of Criminal Procedure; its success, like the success of all correctional efforts, is intimately tied to judicial processes and discretion. Hence responsibility for planning of better services has been placed to gain the voice and ear of those agents most crucial to their implementation. The Judiciary's influence and interest in the project have been invaluable.

The Continuing Legal Education Committee of the Judicial Section was responsible for appointment of a Project Advisory Board, consisting of five judges and four chief adult probation officers who would represent state needs and leadership in this area. The range of their practices, needs and thinking with respect to probation and corrections will hopefully be reflected in the breadth of this plan.

Project staff and consultants were employed by this Advisory Board in February, 1976, and with their help a comprehensive survey of probation practices and community

corrections resources across the state was planned and executed. The opinions and insights of professionals from every field impacting on probation were sought through a series of detailed questionnaires. Copies of those questionnaires administered and described below are to be found as appendices to this volume. For the reader's convenience, tabulation of responses for each question have been recorded there.

These surveys did not proceed by a rigid scientific rule. Much of the information sought is descriptive and general. Its breadth precluded strict control of variables, and the reader should bear in mind that many of the numbers generated require interpretation and qualification.

The most comprehensive questionnaire was administered to every chief of adult probation in the state. It covered:

- (1) services rendered to each court within the department's jurisdiction,
- (2) staffing,
- (3) casework supervision,
- (4) collections of fees, costs and restitution,
- (5) finances,
- (6) community resource management, and
- (7) general opinions about probation.

A special section of this questionnaire also surveyed probation personnel providing supplemental law enforcement services.

The probation department questionnaire (coded as "Q1-000") was field tested by members of the Advisory Board.

In order to provide thorough coverage of the state, a task force of 53 probation officers and chiefs was recruited to administer the instrument throughout nine designated geographical areas of the state (roughly corresponding to the nine administrative judicial districts). The task force and staff administered 132 questionnaires to cover the same number of probation departments; only 7 were not returned or completed for keypunching and data analysis. Hence the data provided in Appendix A represents the practices and opinions in 233 of the 240 counties where a probation department or officer functions. Nine of the counties not represented are located in the North Central area of the state. Our coverage of probation departments was thus 97% complete.

A Felony Offender Profile Form (Q1-000b) was drawn up with the help of CJD staff. This survey tool requested very detailed information on criminal case proceedings for every felony offender sentenced to probation from selected counties during an established time period. Socioeconomic background and prior criminal history were covered, and for youthful offenders, information on family history.

A representative sample of 25 departments (covering 55 counties) was drawn according to geographic and population categories (6 metropolitan departments with populations of over 250,000; 5 departments with population of between 100,000 and 250,000; 6 departments with populations of 50,000 to 100,000; and 8 essentially rural departments of population less than 50,000). A list of those

counties selected may be found in Appendix L, attached to the Felony Offender Profile Form tabulations. Only 4 were unable to research the data requested, although there were innumerable gaps in that which was provided. It is probably safe to presume that these gaps indicate information that is not now being kept on a uniform basis in case records: this in itself should be expressive of the state of practices in Texas.

"Q1-000a" was developed to provide extensive information concerning physical plants and equipment. (See Appendix M.) This too was distributed to every probation department in the state. (124 or 98% returned.)

The Task Force also delivered a questionnaire to all district judges in the state (Q2-000) and another to county judges (Q3-000). These questionnaires were designed to canvass the judges' impressions of services in their communities, their court practices, and opinions about statewide standards and law affecting community corrections. Approximately 230 were delivered to district judges, and 152 were returned. Some 188 district courts actively exercise criminal jurisdiction - responses from only these judges were included, so our findings represent 80% of the group concerned. Judges in 331 county and county courts at law were solicited, and 245 responded: the results thus represent the opinions of 68% serving at this level. (See Appendices B and C.)

A fourth questionnaire was devised to poll public

understanding of probation and community-based corrections. It was decided, however, that diversity in services and communities across the state, and the difficulty of obtaining a representative unbiased sample outweighed the value of such a poll to our ends here. Instead, a search was made for national public opinion polls which might be assumed to obtain to the state of Texas.

Both prosecuting and defense attorneys were queried with separate but similar instruments. Questionnaires for prosecuting attorneys (Q5-000) were administered with the assistance of the Texas District and County Attorneys Association, which solicited the participation of its entire membership. 316 survey instruments were mailed out to members and 145 returned (46% return rate). The separate instrument for criminal defense attorneys (Q6-000) was mailed out to lawyers belonging to the Texas Criminal Defense Lawyers Association, to faculty members in the Criminal Defense Lawyers Project, to certified criminal law specialists through the Texas Board of Legal Specialization, and to participants in the Counsel for Indigent Parolees Project through the Texas Center for Correctional Services (all services of the State Bar). 613 questionnaires were mailed out and 109 completed and returned (18% return rate). (Copies are found in Appendices D and E.)

As the project evolved, a need for information from justices of the peace concerning bonding practices became evident. Thus a brief, one-page questionnaire eliciting

their views about personal bond programs available to them and about the need for reform in this area was distributed (Q11-000; see Appendix J.) This was done with the help of the Texas Justice of the Peace Training Center at Southwest Texas State University. 513 were mailed out, 231 returned (45% return rate).

In addition to obtaining crucial perspective on the views and practices of the legal community, the Master Plan Project recognized the need for information from resource personnel who might support and sustain any community correction effort. Issues addressed in this survey instrument (Q7-000) included services offered by the resource agency to probationers, cooperation and coordination with the probation department, and opinions concerning probation. (See Appendix F.) Staffs of the Texas Department of Mental Health and Mental Retardation, and of the Texas Employment Commission were polled. In addition, the Commission on Alcoholism and the Drug Abuse Division of the Texas Department of Community Affairs both provided their most complete lists of alcohol and drug programs receiving their support. Respondents consisted of either caseworkers or project directors. The following shows as accurately as possible, the extent of this survey:

TDMHMR	- @ 53 sent	44 returned	(83%)
Tx. Alcoholism Comm.	- @ 160 sent	78 returned	(49%)
Drug Abuse Division	- @ 33 sent	30 returned	(91%)
Employment Comm.	- @ 114 sent	72 returned	(63%)
Rehabilitation Comm.	- @ 33 sent	33 returned	(100%)
TOTAL	- @ 393 sent	257 returned	(65%)

After it was determined that the State Comptroller's Office was unable to provide fiscal data on county budgets for probation, a form (Q10-000) was devised to solicit this information directly from county fiscal officers. This was mailed to 254 such; 156 were returned (61%). Owing to the lack of uniformity in county budgeting procedures for collecting fees or for apportioning funds to multicounty probation agencies, however, incongruities in the responses received made extensive analysis impossible. Staff contacted probation departments and followed up with a telephone survey in order to obtain more complete data on expenditures from both local and state/federal sources. Totals published in Appendix I reflect state-wide expenditures derived from these sources and cross-checked as far as possible. Where two budget figures conflicted, we relied upon that provided by the probation department. Where only partial information was provided, we correlated grant, fee and expenditure figures to arrive at the closest approximation of actual budget.

Completing the survey, the views of law enforcement officials across the state were solicited. Target groups were 545 chiefs of police (Q8-000, App. G), 254 county sheriffs (Q9-000, App. H), and 450 state highway patrolmen (Q12-000), App. K). The Texas Department of Public Safety, the Police Chief's Association and the Sheriff's Association assisted by distributing these to their personnel and memberships. 275 Q8-000's were returned (50%); 154 Q9-000's were

returned (73%); and 328 Q12-000's were returned (73%).

The object was to determine the opinions of these interest groups about such issues as the adequacy of probation services, cooperation between departments, diversion, work release, personal bond, and about probation as a sentencing alternative.

This was by far the most comprehensive, thorough survey of probation services in Texas ever undertaken; former surveys and their findings will be treated below. The survey was implemented in June of 1976; cut-off date was December 15, 1976. Follow-up letters and phone calls encouraged participation and response. The Center for the Judiciary arranged for data analysis with the University of Texas, subcontracting with a private programmer.

Besides this survey of current practice and opinions of probation and community corrections, project staff also collected historical information concerning probation in Texas. Sources included commentary on case law and legislation found in the Code of Criminal Procedure; a former CJD survey of probation and CJD records for spending in this area; theses prepared for the Criminal Justice Program, at Sam Houston State University's Institute for Contemporary Corrections; and materials gathered by the Texas Council on Crime and Delinquency.

Research was also done into the state of probation practice across the nation. Completed corrections master plans for other states were studied and compared. Bibliographies for every problem area were compiled and an attempt

was made to obtain the most salient and recent reference volumes and research reports.

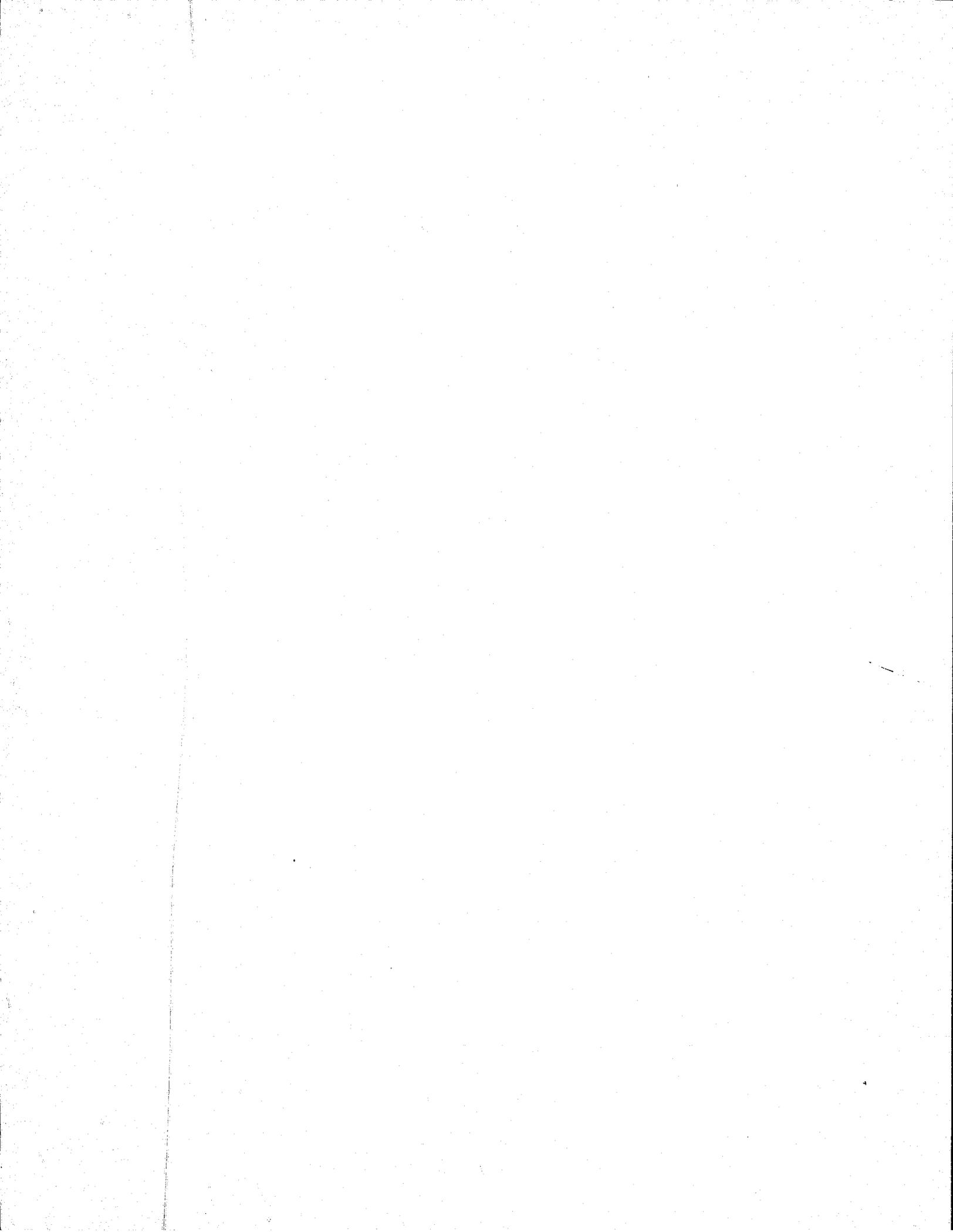
In addition, we profited from the assistance of experts in special program areas. The Texas Probation Manpower Training Project (Sam Houston State University) helped shape the report on this area. The section on using volunteers for probation was prepared by volunteer coordinators for the Travis county and Dallas county adult probation departments, with input from other volunteer coordinators. Highlights of case law affecting probation practice follow a paper on "Post-Trial Criminal Proceedings," prepared by Judges Wendell Odom (Court of Criminal Appeals) and Fred Hooey (180th District Court) and presented at the Texas College of the Judiciary, December, 1976 (Huntsville, Tx.).

Again, every effort was made to tap the expertise of Texas's professional community. Through the survey and task force, innovative and exemplary projects around the state were identified. Staff requested and obtained project descriptions and (where available) evaluations. Criminal Justice Division staff assisted, making their records available. Although site visits to evaluate these programs had been planned by staff and the Advisory Board, constraints of time and money were prohibitive, and so very little consistent or quantifiable evaluative material has informed our discussion of these projects.

Through all of these channels - the survey, the advice of experts and practitioners, the research of secondary materials - the project was able to reliably complete its first task, the identification of our existing systems and resources. Further, this system could be compared against others, both state and federal, and against recommended professional standards and trends in thinking. All we had thus learned was correlated in the second planning stage, a conception of the 'ideal' system. This stage in our work will be reflected by the plan's general aim towards the highest possible level of performance, reiterated in specific recommendations following from our problem analysis section (Volume 2).

Setting priorities and synthesizing our findings, recommendations, and analyses of constraints into a model plan will require a challenging balance between what is desired and what can likely be achieved over the next five to ten years. This will be reserved for Volume 3, as mentioned earlier.





A. A HISTORY OF ADULT PROBATION LAW IN TEXAS

Adult probation in Texas has a brief legislative history. Although a law providing for juvenile probation officers (who served without compensation) was passed as early as 1907, adult probation received no legislative mandate until 1947, and no effective legislative support until 1957.¹

The Suspended Sentence Act of 1913 (Article 776-781)

The only legislation passed prior to 1947 which provided for the release of a convicted offender without imprisonment was the Suspended Sentence Act of 1913.² This act, amended slightly in 1925 with the revised penal code, and again in 1931 and 1941, remained in force until 1965.

The act provided that a suspended sentence could be granted, upon a first felony conviction only, provided the offense did not include murder, perjury, burglary of a private residence, robbery, arson, incest, bigamy, or abortion, and provided the punishment assessed did not exceed five years. Under the original act, only a jury could recommend a suspended sentence: the court was bound by their recommendation. The 1931 amendment, however, authorized judges to grant a suspended sentence as well.³ This revision in effect increased the number of sentences suspended, keeping more offenders out of the prison system.

After receiving a suspended sentence, the defendant was to be released on his own recognizance in an amount set by the court. The sentence was to remain suspended "during the good behavior of the defendant." "Good behavior" was defined initially as not being convicted of another felony. If there was a final conviction for a subsequent offense the suspension was rescinded, and the court pronouncing judgment might or might not cumulate the punishment for the first with the punishment for the subsequent conviction(s).

The 1941 amendment redefined "good behavior," adding several misdemeanors, namely:

"...any character or grade of the offense of theft, embezzlement, swindling, conversion, theft by bailee, or any fraudulent acquisition of personal property."⁴

Nonetheless, upon conviction of one of these misdemeanors the court was not bound to rescind the suspended sentence, nor, if rescinded, was it bound to cumulate the sentences.

Upon expiration of the period of sentence the defendant could file a motion for new trial and dismissal of the case.

The Adult Probation and Parole Law of 1947

The Suspended Sentence Act did not require any supervision of the convicted offender upon his or her release into the community. The Adult Probation and Parole Law, enacted in 1947 by the 50th Legislature, called for such supervision.⁵ Texas was one of the last states to so provide statutory authority for probation.

This law authorized courts of original criminal jurisdiction--and only the courts, thereby excluding juries--to suspend the imposition or execution of a sentence and place a convicted felon on probation. It was still possible to suspend sentence without invoking probation. A defendant was eligible for probation only if he or she had no previous felony convictions, if the offense did not include murder or rape or "offenses against morals, decency, and chastity," and if the maximum punishment assessed did not exceed ten years.

The maximum period of probation could not exceed the maximum sentence imposed for a particular offense. The court could establish specific conditions or "rules" for probation at its own discretion; however, the act suggested nine conditions, requiring that the probationer:

- a. Commit no offense against the laws of this state or of any other state of the United States;
- b. Avoid injurious or vicious habits;
- c. Avoid persons or places of disreputable or harmful character;
- d. Report to the probation officer as directed;
- e. Permit the probation officer to visit him at his home or elsewhere;
- f. Work faithfully at suitable employment as far as possible;
- g. Remain within a specified place;
- h. Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the court shall determine; and
- i. Support his dependents.⁶

These suggestions are identical with those put forward in the Standard Probation and Parole Act (National Probation

and Parole Association, now known as the National Council on Crime and Delinquency), except that (a.) above was added.⁷

The 1947 act authorized the court to modify or terminate the period of probation at any time. After the defendant completed a probated sentence, the court could set aside the verdict of guilty or allow the defendant to withdraw his or her plea of guilty. Dismissing the indictment or charges released the defendant from penalties or disabilities resulting from the conviction.

The act also provided for the administration of probation at the state level, designating the state Board of Pardons and Paroles as the State Board of Probation. This board was to name a Director of Probation and Parole who would establish a state-administered adult probation and parole system. Probation and parole officers were both to be designated as state employees and assigned to courts and/or judicial districts. Probation officers were to supervise probationers and prepare presentence reports upon the court's direction. Although this act remained in the statutes for ten years, its provisions were never carried out, due to a single phrase attached to the act which stated, "appropriations permitting." No state funds were ever appropriated.

The Adult Probation and Parole Law of 1957

The second Adult Probation and Parole Law, enacted in 1957 by the 55th Legislature, separated the administration of probation and parole, designating probation a function of county government and parole a function of the state.⁸ Under this act, the commissioners court within each county was authorized to employ and fix salaries of probation officers and other probation department employees. Two or more counties within a single judicial district could share the expenses of employing one probation officer to serve both counties. No provision was made for state subsidy, oversight or control of probation.

The 1957 act set standards for the employment of probation officers, requiring four years of college at an accredited college or university and two years of full-time paid employment in probation, correctional, social welfare or personnel work, teaching, or as a licensed attorney. Two additional years of work experience could be substituted year for year for the educational requirement. The act also stated its intent that case loads should not "substantially" exceed 75 probationers and that no person should be required to serve as probation officer for both adults and juveniles.

The law made no changes in the 1947 act's provisions for eligibility and conditions for probation; it did describe in detail when the court might grant an early release from

probation (after two years or one-third of the period of probation, whichever was less), and included more complete provisions for transferring jurisdiction of a probated case.

In 1959 the 56th Legislature added a provision that when a court determines terms of probation, or subsequently modifies them, the probationer shall be furnished a copy of the order setting forth such terms and conditions.⁹

The Revised Code of Criminal Procedure of 1965 and Amendments

In 1965 the 59th Legislature mandated significant changes in probation with the enactment of the Revised Code of Criminal Procedure.¹⁰ Under this code the Suspended Sentence Act was eliminated, and eligibility for probation was expanded to include misdemeanants. Authority over the employment of probation personnel and the administration of departments was specifically vested in the district judges of the state (with advice and consent of commissioners courts, which remain responsible for fiscal support).

Except for minor changes enacted in 1967, in 1973 and again in 1975, the Revised Code of 1965 stands as the legal foundation for the current system of adult probation in Texas. Articles 42.12 and 42.13 (Vernon's Texas Statute Annotated) are reproduced as amended to date in the following chapter.

Under the 1965 code, both the judge and the jury are empowered to grant probation. However, there are differences in the method and terms under which the judge and jury may

do so. If the defendant elects a jury trial, before trial begins he must file a sworn motion requesting probation and stating that he or she has never before been convicted of a felony; a jury may grant probation only to persons who have no prior felony convictions. Furthermore, a jury may impose only those conditions previously set out in the 1947 and again in the 1957 acts. A judge must grant probation in all eligible cases where probation is recommended by the jury, and he may not add to the statutory conditions.

The judge, on the other hand, may grant probation whether recommended by the jury or not, regardless of a defendant's prior record, and, upon granting probation he may set special conditions other than or in addition to those defined in Section 6, Article 42.12.

The court is no longer empowered to suspend execution of sentence, but may only suspend its imposition.

The 1965 code does not enumerate any felony offenses for which probation may not be granted, removing those exceptions set out in the old Suspended Sentence and Adult Probation laws. However, both judge and jury are restricted to granting probation only when the maximum sentence assessed for an offense does not exceed ten years.

The 59th Legislature incorporated a new law into the Revised Code of 1965. Known as the Misdemeanor Probation Law, it allowed for the first time probation for all misdemeanors for which the permissible sentence is confinement

in jail or a fine in excess of \$200.00. In only a few areas do the provisions of this law differ significantly from the statutes governing felony probation.

One difference occurs in the requirements for eligibility. Unlike felony probation, where eligibility is premised upon the sentence assessed, eligibility for misdemeanor probation is premised upon the maximum possible sentence set by statute for a given offense. Under the 1965 law, to be eligible for misdemeanor probation a defendant: 1) must apply in writing before trial; 2) must have no previous convictions for felony offenses or misdemeanor offenses for which the maximum possible penalty was confinement in jail or a fine in excess of \$200.00; 3) must not have been granted probation under the provisions of this act within the past five years; and 4) must have paid all trial costs and any portion of an assessed fine, as directed by the court. The 1967 amendments to the 1965 code altered the second requirement, so that prior convictions (except for a like offense within the last five years) do not render an individual ineligible for misdemeanor probation.¹¹

Under the Misdemeanor Probation Act, the court can set a term of probation up to the maximum sentence possible for the given offense. The act suggests nine conditions for probation similar to those set out for felony provisions. The only differences affect payment of court costs and the limits of restitution or reparation.

According to the provisions of the act, court records do not reflect a conviction at the time an offender is

placed on probation. Only the date and the fact that probation has been granted are recorded on the docket sheet or in the minutes of the court. If the probationer successfully completes the period of probation, the court, upon its own motion, sets aside the finding of guilt and dismisses the complaint or indictment. If the probation is revoked, the finding of guilty becomes final at that time, unless appeal is taken, and the court renders judgment against the defendant.

Amendments of 1967

Two provisions were added by amendment of the statutes governing probation in 1967.¹² First, the courts were allowed to assess a fee of up to \$10 per month, as a condition for probation. Paid to the court throughout the period of probation, this fee is to be distributed to the county or counties within the court's jurisdiction for use in administering probation. The provision for a fee was also made to apply to misdemeanor probation.

The legislature also reduced employment requirements for probation officers in rural counties of less than 50,000 population: two years of study at an accredited college or university will now suffice.

Amendments of 1973

Revisions of Article 42.12 in 1973 limit the period of probation to no more than ten years and no less than the minimum prescribed by law for the offense for which the defendant was convicted and probated, whether punishment is assessed by jury or by the court.¹³ Also, when probation is revoked, the judge is now allowed to reduce the term of imprisonment originally assessed to any term not less than the minimum prescribed by law.

The Controlled Substances Act of 1973 amended Article 4476-15, Texas Civil Statutes, adding Section 4.12 which applies to both felony and misdemeanor probation. Proceedings against anyone not previously convicted of an offense under this Act, and charged with or found guilty of an offense relating to a controlled substance, may be deferred and probation required, for up to two years. Section 4.12 is reprinted below. A similar clause permitting deferred proceedings for those who plead guilty or nolo contendere to any felony offense was appended to Article 42.12, C.C.P., in 1975 (Section 3d (a), (b), and (c)).¹⁴

Amendments of 1975

The 64th Legislature added to the conditions which may be imposed for probation under Art. 42.12 another condition allowing the judge to require detention of the defendant in a penal institution for not more than 30 days or one-third

of the sentence, whichever is less.¹⁵ It also provided that anyone detained for trial upon a warrant for probation violation shall have a revocation hearing within twenty days of filing a motion so requesting. The court may continue the hearing for good cause shown by either the defendant or the state. A provision in Art. 42.12 that was adopted in 1973, that the court might impose a term of probation different from the length of the punishment assessed by a jury, was removed in 1975, and so no longer applies.

B. A HISTORY OF ADULT PROBATION PRACTICES

This history will limit itself to adult probation. The histories of other community-based corrections programs are so brief that they will not be discussed independently here. We have already mentioned how Texas was one of the last states to enact a suspended sentence law to circumvent prison for offenders, and was again one of the last states to legislate community treatment for adults through probation. By comparison with adult corrections, probation services for juveniles were given much legislative attention, and to some extent laid groundwork for the adult system.

A Juvenile Court Act was first enacted in 1907 providing for the release of adjudicated delinquents to probation officers who served without pay.¹⁶ The 1919 Legislature amended this act to provide for probation officer appointments, duties, and salaries, and still other legislated expansions in juvenile services occurred in 1927 and 1943.¹⁷ The State Child Welfare division listed the number of juvenile probation officers as 61 in 1934, and we know that the very next year 22 counties had full time salaried juvenile officers with case loads ranging from 4 in Nueces County to 724 in Wichita County.¹⁸ Legislation shaping juvenile corrections created a strong precedent, one of many, favoring control of services at the local county level.

While juvenile probation was shaping up, criminal courts in the meantime were diverting adults only under the suspended sentence law. We have little or no information concerning the use of this disposition in the first half of this century. During the 1920's the public thought that, rightly or not, a major crime problem existed. Governor Neff in 1922 placed blame for this on the Suspended Sentence Act, and disbanded the Board of Pardons, reducing the number of prisoners receiving early release.¹⁹ Despite this reactionary period, however, the 1931 amendment to the Suspended Sentence Act allowed courts as well as juries to grant a suspended sentence, almost certainly increasing the latter's application.

Not until the aftermath of World War II, with a slump in the industrial economy and the return of thousands of veterans, did Texas face its need for a better correctional alternative to incarceration than was provided by a suspended sentence.²⁰ Yet, even then, the 1947 Adult Probation Law failed to provide a meaningful tool for supervision of offenders, since the legislature never appropriated money to substantiate the state's newly legislated authority to hire professionals.

Presentence investigations were of course unheard of, and the bulk of probation services was provided voluntarily by sheriffs, law librarians, ministers, or friends of the family designated to do so at the court's discretion. Probation was therefore used as a disposition largely for

the defendant who could, via testimonials, show himself worthy of it.²¹ Abuses and inherent limitations characterized this system.

In the early 1950's, however, a handful of communities around the state took it upon themselves to initiate professional services. Dallas County arranged in 1953 to hire two persons to supervise felony probation for their criminal district courts, calling them grand jury bailiffs in order to do so.²² Nueces and Bexar counties were also experimenting this early with formal probation supervision. Not far behind, in Travis County a juvenile probation officer was transferred to work adult cases, remaining on the county payroll as a juvenile officer until local legislation could be passed permitting the county to hire adult probation officers as such.²³ By 1957 a lobby of juvenile probation officers and concerned county and judicial leaders had drafted and successfully passed the Adult Probation and Parole Law which defined fiscal and administrative responsibility for adult probation as the local government's.

The 1957 law resolved the stalemate and contradictions posed for a full decade by a state-administered system with no state monies. Money for probation was to be provided from the counties' general funds. The number of departments grew slowly; only those counties with an adequate tax base were able to develop services on a meaningful scale. This has not substantially changed over the years. Progress over the past ten years is largely due to subsidies of federal

monies, to better public awareness of correctional alternatives and to growing emphasis on corrections as a profession.

Several private, professional groups have helped to shape the profession in Texas. These include the Texas Social Welfare Association in its early days, and later the Texas Probation and Parole Association, which affiliated with the national association as early as 1937 and came to be called the Texas Council on Crime and Delinquency. T.P.P.A. (or T.C.C.D.) merged with several other groups in the 1960's forming the Texas Corrections Association, which today maintains a standing committee on probation.

Much more recently professionals in both juvenile and adult probation have banded together, again calling themselves the Texas Probation Association, and again seeking to share ideas and improve professional standards.

Probation Since 1957

Some information is available describing the use of adult probation in the 1960's. In 1967 A. L. Havenstrite, then a parole officer in Dallas County, surveyed adult services for a master's thesis under Sam Houston State's Institute for Contemporary Corrections.²⁴ He gathered information from 195 of the 254 counties, 98 of which indicated that they provided some form of adult probation services.²⁵ It is unlikely that many of the 59 counties not responding to his survey, and therefore not represented in his findings,

provided services. Havenstrite established the existence of 55 probation departments (43 counties were served by non-resident probation officers from these 55 departments), employing a total of 120 officers.²⁶

According to his findings, the four most populous counties in the state (Harris, Dallas, Bexar and Tarrant) averaged probationer case loads of about 200.²⁷ Case loads for counties of more than 100,000 and less than 500,000 population were said to range from a low of 76 to a high of 452, the mean average being 187.²⁸ Case loads in less populous counties also averaged 185 clients.²⁹ At the time, El Paso County had no adult probation officer and offered no adult probation services of any kind. Forty-four of the fifty-five departments supervised misdemeanor as well as felony probation.

In 97 counties Havenstrite surveyed offering no formal probation services, persons placed on probation reported to:

- the sheriff in69 counties;
- the district clerk in9 counties;
- the district attorney in5 counties;
- the district judge in8 counties;
- volunteers in3 counties;
- part-time probation officer in 1 county; and
- to no one in2 counties.³⁰

Havenstrite's study served for several years as the most complete information on the adult system, and from time to time in this Plan will serve as a standard by which to compare our progress over the last ten years.

One other study tells us something about probation's development. The Texas Criminal Justice Division, dubbed the State Planning Agency for use of federal seed money, began funding heavily in the area of probation in fiscal year 1972. In 1971, a task force of probation officers was assembled to conduct a thorough survey of felony and misdemeanor probation services. The data were to be used to inform CJD's funding priorities in this area, and described:

- 1) the number of convictions for that year;
- 2) the number of probationers;
- 3) probation department staff;
- 4) probation functions and services;
- 5) presentence investigations; and
- 6) fiscal collections.

Every county in the state was covered by this survey. Task force members interviewed probation officers and reviewed court clerk and probation records in arriving at their facts.³¹

In 1971 probation supervision of some type was extended for felony offenders in 210 counties, and for misdemeanor offenders in 167 counties. But in only 168 counties was supervision for felony offenders the function of a probation department proper, and in only 125 did a department supervise misdemeanants. County sheriffs still assumed much of the burden where no departments functioned; 42 sheriffs supervised felony probationers and 35 supervised misdemeanor probationers.

Fiscal year 1971 budgets for all departments totalled almost \$4,635,000 by the survey's determination; CJD records

rendered an additional \$3,756,000 expended by them on behalf of probation. A reasonable estimate, then, for the amount of combined local and federal monies devoted to probation that year falls in the neighborhood of \$8,000,000. Close to \$2,000,000 in probation fees were collected by departments to offset these expenses. All revenues collected by state and county criminal courts (probation fees, court costs, fines and restitutions) amounted to \$7,485,000.

Throughout calendar year 1971, 17,038 individuals were given a probation disposition; this represented 51% of the 33,206 felony convictions recorded by T.J.C. in the annual report for that year. Correspondingly, 33,566 misdemeanants were placed on probation, figuring as 45% of the total misdemeanor convictions recorded. Thus we find 50,600 cases/persons gaining entrance to the system over a one year time frame.

This, however, does not reflect everyone in the state under the terms and authority of the probation statutes. The number actually serving a probated sentence at any one time during 1971 was close to 68,600: 33,603 for felony offenses and 35,048 for misdemeanor offenses. We will return to these figures for comparison against the number generated by our 1976 survey.

The 1971 study showed 297 full-time paid probation officers distributed across the state as follows:

90 served in counties of population	500,000 & over
24 served in counties of population	250,000-500,000
44 served in counties of population	100,000-250,000
39 served in counties of population	50,000-100,000
100 served in counties of population	under 50,000

Apparently then, an average case load for felony probationers in 1971 was 113 cases, and with misdemeanor and felony cases taken together an average combined case load was 230.

Of those departments surveyed, 107 acknowledged that presentence investigations might be used by the courts. Other indicators of the level of sophistication attained six years ago include in-service training programs for 24 departments; supervision and use of interns by 22 departments; and supervision and use of volunteers by 24 departments. We do not know, but it seems likely that the same 25-30 departments account for these expanded probation programs.

A comparison of findings by Havenstrite in 1967 and CJD in 1971 is provided below.

	<u>Havenstrite Survey '67</u>	<u>CJD Survey '71</u>
Counties offering felony probation	98	210
Counties offering misd. probation	--	167
# of departments functioning	55	---
# probation officers employed	120	297
# county sheriffs supervising probation	67	42

Role of the Criminal Justice Division

As stated earlier, L.E.A.A. and the state planning agency for corrections, the Governor's Criminal Justice Division, have played an important role in expanding probation services throughout the state. In the six years between 1969 and 1975 CJD distributed approximately \$13,282,000 in federal and matching state funds to probation programs around the state.³² Eighty-six departments or programs have been recipients. Three-quarters of this amount, or about \$11,012,000 have gone to adult or combined adult and juvenile probation programs. It is impossible to establish an exact ratio since so many combined service adult-juvenile departments were funded jointly.

Planning is done by CJD staff, who provide technical assistance to local communities requesting grants, helping them to develop grant applications and then processing them through a detailed review. A 20 member advisory board recommends action on disbursement of funds, taking into account local and state priorities.

From 1969-74 (inclusive) the Governor's Division granted a total of \$124,548,000 to communities in Texas for all phases of criminal justice.³³ During that 6 year period almost \$37,000,000, or 30% of CJD's discretionary awards, was spent on corrections programs. In turn, one-third of these corrections grants (@\$13,300,000) were disbursed to community-based programs, chiefly to probation departments

(adult & juvenile). See Table I for yearly summaries of expenditures page 54.

L.E.A.A. funding in all categories rose steadily from \$1.3 million in 1969 to almost \$36 million in 1974, rising in the corrections category from \$193,000 to \$10,000,000. Awards to adult probation and related community programs grew from \$137,400 in '69 to \$2.5 million in '74. However, with the pruning of federal spending for criminal justice in the last 2 fiscal years, Texas has realized a cutback of over 25% in CJD's available funds, projecting a total of \$25,000,000 to be spent in fiscal year 1977.³⁴ Figures for adult corrections have been pared down accordingly. It is likely that Texas can continue to expect a smaller proportion of its fiscal support in this area to come from federal subsidies.

For probation, funding began in 1969 with awards of \$137,400 to two projects.³⁵ In 1970 awards grew to \$554,300 for three projects. In 1971, \$840,300 was awarded to six projects for adult probation. Note that this figure, obtained from computer printouts supplied by CJD staff, is strikingly more conservative than that disseminated by the 1971 probation survey, where \$3,756,000 was said at the time to have been expended. This inaccuracy should be understood as a result of budgeting complexities rather than of political mischievousness.

It requires almost two years to establish actual fiscal year expenditures, as distinguished from fiscal year awards. Some programs are never implemented by the grantee, and

monies not expended revert to a general fund and may be distributed during the next fiscal year. The \$3,756,000 figure for 1971 more likely represents money disbursed by CJD during fiscal year 1972 (July, 1971 to July, 1972) for both juvenile and adult probation. Indeed records for that period show that \$1,989,900 went to 31 adult/adult-juvenile projects. An additional \$1,479,000 of special "Impact" monies, awarded directly by L.E.A.A. in Washington, came under the heading of adult probation for Dallas County. The total allegedly spent for adult probation in 1972 was thus \$3,469,000, and the total for all probation, adult and juvenile, was thus \$3,914,000. This somewhat troublesome account of CJD's involvement in the area is simplified by Table I, found on page 54, showing categories of spending for community corrections, 1969-75. It is also indicative of some of the difficulties encountered in trying to sort out the "truth about adult probation."

The Criminal Justice Division expended in the area of \$3,520,000 for adult/adult-juvenile projects in 1973, or \$4,585,000 when programs exclusively for juvenile probation are added. In 1974 the amount for adult programs dwindled somewhat to \$2,491,000, but was shared among 60 separate projects, with an additional \$292,900 expended on Dallas Impact programs. When juvenile probation projects are included the total grows to \$3,251,000. Beginning in 1974 a few awards were made to community-based correctional programs other than probation; the number has grown since.

To summarize, over a six year period from 1969 to 1974 (the last year for which complete information was available at the time of this report) CJD handed out \$11,012,000 to adult/adult-juvenile programs and \$13,282,000 to all probation programs. Table II, pages 55-57, lists CJD grants to probation programs from 1970 to 1976; although information for fiscal years 1975 and 1976 is incomplete, it clearly indicates a reduction in the overall level of spending for community corrections.

One project supported by CJD merits special mention here: the Texas Adult Probation Manual.³⁶ This ready reference manual was prepared during 1974 by a task force of probation officers. Its object is to suggest to departments standard policies and practices which have withstood the tests of time. The Manual describes departmental organization and administration; procedures or policies for interviewing, for pretrial release, for investigation, and for supervision and treatment; rules of probation; and methods for handling violations, transfers and discharges. Standard probation forms recommended for necessary transactions and record-keeping have also been adopted there. The manual has been distributed to most probation departments in the state.

TABLE 1
 CJD EXPENDITURES
 CORRECTIONS & ALL CATEGORIES
 1969-1974

	<u>TOTAL CJD AWARDS</u>	<u>CORRECTIONS AWARDS</u>	<u>COMMUNITY CORRECTIONS</u>
1969	\$ 1,298,000	\$ 193,000	\$ 137,400
1970	\$ 9,439,000	\$ 2,514,000	\$ 554,300
1971	\$ 20,070,000	\$ 7,366,000	\$ 840,300
1972	\$ 25,279,000	\$ 6,965,000	\$ 3,468,900
1973	\$ 32,524,000	\$ 9,995,000	\$ 3,520,100
1974	\$ 35,938,000	\$ 9,964,000	\$ 2,491,100
TOTALS	\$124,548,000	\$36,998,000	\$11,012,000

CJD GRANTS TO PROBATION PROGRAMS
1970-1976
(Expenditures as of October, 1976)

COUNTY	1970	1971	1972	1973	1974	1975	1976	TOTAL
Anderson Henderson Houston					\$ 55,132 \$ 37,962			\$ 93,094
Bailey					\$ 8,575			8,575
Bastrop Lee Burlison Washington						\$ 41,140		\$ 41,140
Bee			\$ 27,876	\$ 6,683	\$ 25,414	\$ 32,719		\$ 92,692
Bexar			\$213,075	\$198,704	\$188,067	\$ 59,049		\$ 658,895
Bosque Coryell Hamilton Comanche			\$ 29,958		\$ 34,274			\$ 64,232
Brooks				\$ 10,316				\$ 10,316
Brown Hills				\$ 8,887				\$ 8,887
Calhoun			\$ 6,981	\$ 15,517	\$ 9,769	\$ 9,000		\$ 41,267
Cameron		\$ 57,878		\$118,068		\$ 14,189		\$ 190,135
Camp Marion Upshur Wood			\$ 21,252	\$ 32,671				\$ 53,923
Castro Skisher						\$ 11,267	\$ 15,031	\$ 26,298
Chambers Liberty				\$ 21,000	\$ 32,200			\$ 53,200
Brazos							\$ 8,876	\$ 8,876
Cherokee					\$ 34,350			\$ 34,350
Cochran			\$ 14,154	\$ 14,630				\$ 28,784
Coleman			\$ 13,722					\$ 13,722
Collingsworth Carson Childress Donley Hall					\$ 38,095	\$ 37,165		\$ 75,360
Cooke Denton				\$ 60,318	\$ 60,264 \$ 55,005			\$ 175,587
Crosby Lubbock		\$ 18,227		\$ 12,940 \$ 39,759	\$ 10,714 \$ 34,557	\$ 8,484		\$ 124,681
Culberson El Paso Hudspeth			\$287,109	\$171,680	\$178,094			\$ 636,883
Dallas			\$722,222 \$756,796		\$234,827 \$ 58,065	\$ 4,391 \$979,101		\$2,755,402
De Witt Goliad Jackson				\$ 38,902		\$ 15,000		\$ 53,902
Ellis				\$ 8,370	\$ 7,688			\$ 16,058
Erath Hood					\$ 14,725		\$ 9,601	\$ 24,326
Falls					\$ 11,840		\$ 1,557	\$ 13,397
Fort Bend							\$ 11,038	\$ 11,038
Gaines				\$ 16,905	\$ 18,670			\$ 35,575
Galveston						\$48,216		\$ 48,216
Garcia				\$ 11,062	\$ 11,859	\$ 6,803		\$ 29,724
Gray					\$ 35,346			\$ 35,346
Graysen				\$ 7,430				\$ 7,430

TABLE 2
CJD GRANTS TO PROBATION PROGRAMS
1970-1976
(Cont'd.)

COUNTY	1970	1971	1972	1973	1974	1975	1976	TOTAL
Grimes					\$ 13,044			\$ 13,044
Guadalupe				\$ 40,233	\$ 41,092			
Colorado				\$ 37,326				
Gonzales								
Lavaca								\$ 118,651
Hale			\$ 42,633		\$ 53,152	\$ 48,529		\$ 144,314
Harris	\$ 471,940	\$ 572,674	\$ 125,374	\$ 360,102	\$ 93,529	\$ 13,545		
			\$ 207,196	\$ 9,196				
				\$ 224,538				\$ 2,078,094
Hidalgo		\$ 110,324		\$ 112,113	\$ 43,899	\$ 34,907		\$ 301,243
Hopkins			\$ 14,300			\$ 10,401		
Delta								
Franklin								
Rains								\$ 24,701
Hunt				\$ 16,619	\$ 11,448			\$ 28,067
Jasper				\$ 33,593	\$ 43,159	38,776		
Newton								
Sabine								
San Augustine								\$ 115,528
Jefferson				\$ 139,087	\$ 26,936			
				\$ 103,097				\$ 269,120
Jim Hogg					\$ 25,996			\$ 25,996
Jim Wells						\$ 11,774		\$ 11,774
Karnes				\$ 65,289	\$ 66,491	\$ 66,734		\$ 198,514
Kimble				\$ 48,712	\$ 47,971	\$ 33,085		
Bandera								
Gillespie								
Kendall								
Kerr								\$ 129,768
Knox				\$ 12,291	\$ 16,667	\$ 13,698		
King								
Baylor								
Cottle								\$ 42,656
Madison						\$ 13,189	\$ 2,378	\$ 15,567
Martin				\$ 15,848	\$ 18,616			\$ 34,464
McLennan			\$ 160,616	\$ 191,588	\$ 28,000		\$ 7,127	
				\$ 182,840	\$ 13,807			\$ 583,978
Medina						\$ 16,818	\$ 9,968	\$ 26,786
Notley				\$ 2,543	\$ 2,540			
Briscoe								
Dickens								
Floyd								\$ 5,083
Nacogdoches			\$ 67,531	\$ 63,712				
				\$ 30,863				\$ 162,106
Nueces				\$ 2,683				\$ 2,683
Orange				\$ 49,044		\$ 53,568		
						\$ 44,127		\$ 146,739
Parker				\$ 40,114	\$ 37,178			\$ 77,292
Pecos						\$ 70,706	\$ 18,345	
Brewster								
Crockett								
Jeff Davis								
Presidio								
Reagan								
Sutton								
Upton								\$ 89,049
Polk		\$ 44,142	\$ 81,575	\$ 87,983				
San Jacinto				\$ 79,294				
Tyler								
Trinity								\$ 292,994
Runnels					\$ 11,198		\$ 6,351	\$ 17,549

TABLE 2

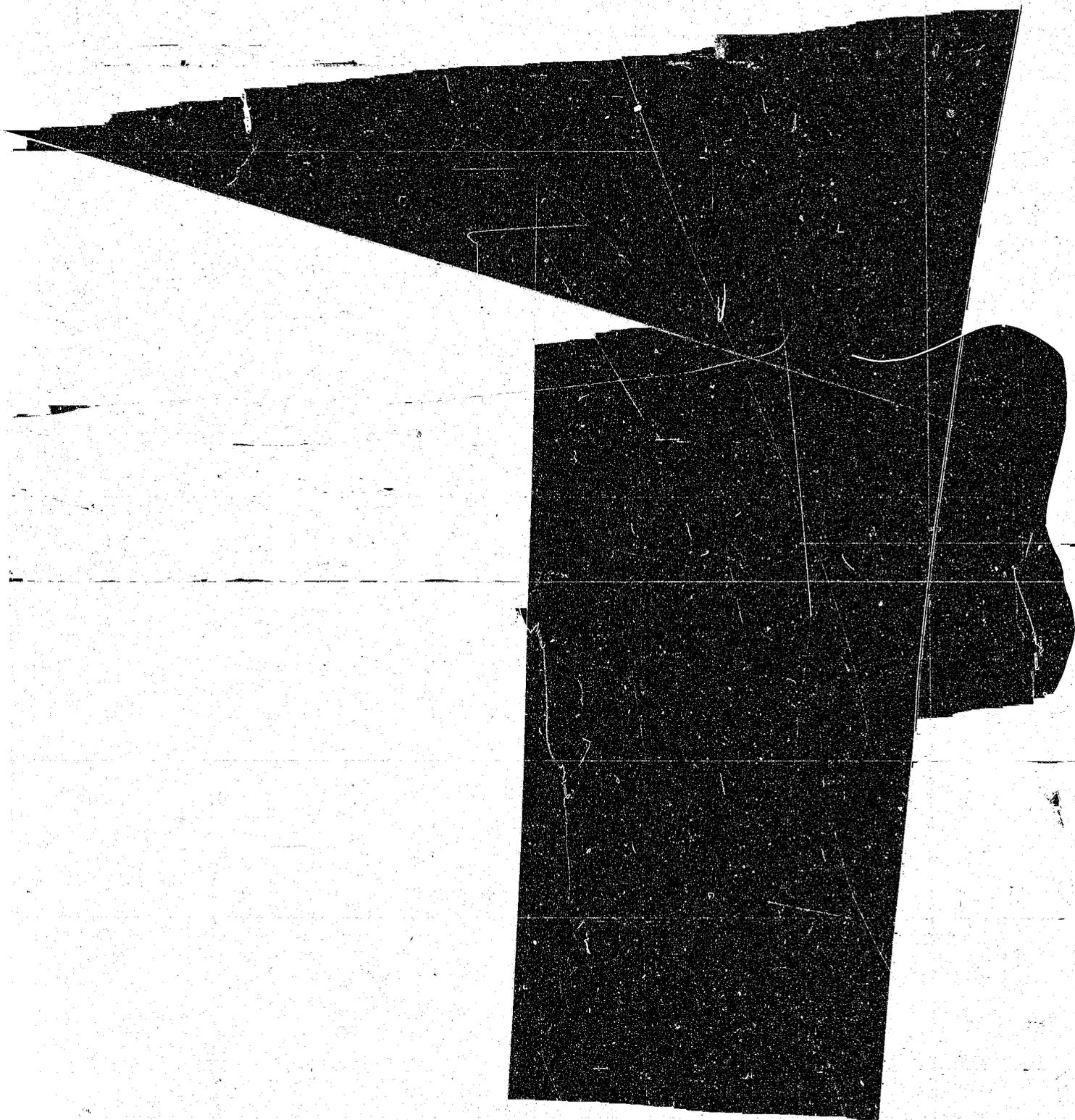
 CJD GRANTS TO PROBATION PROGRAMS
 1970-1976
 (Cont'd.)

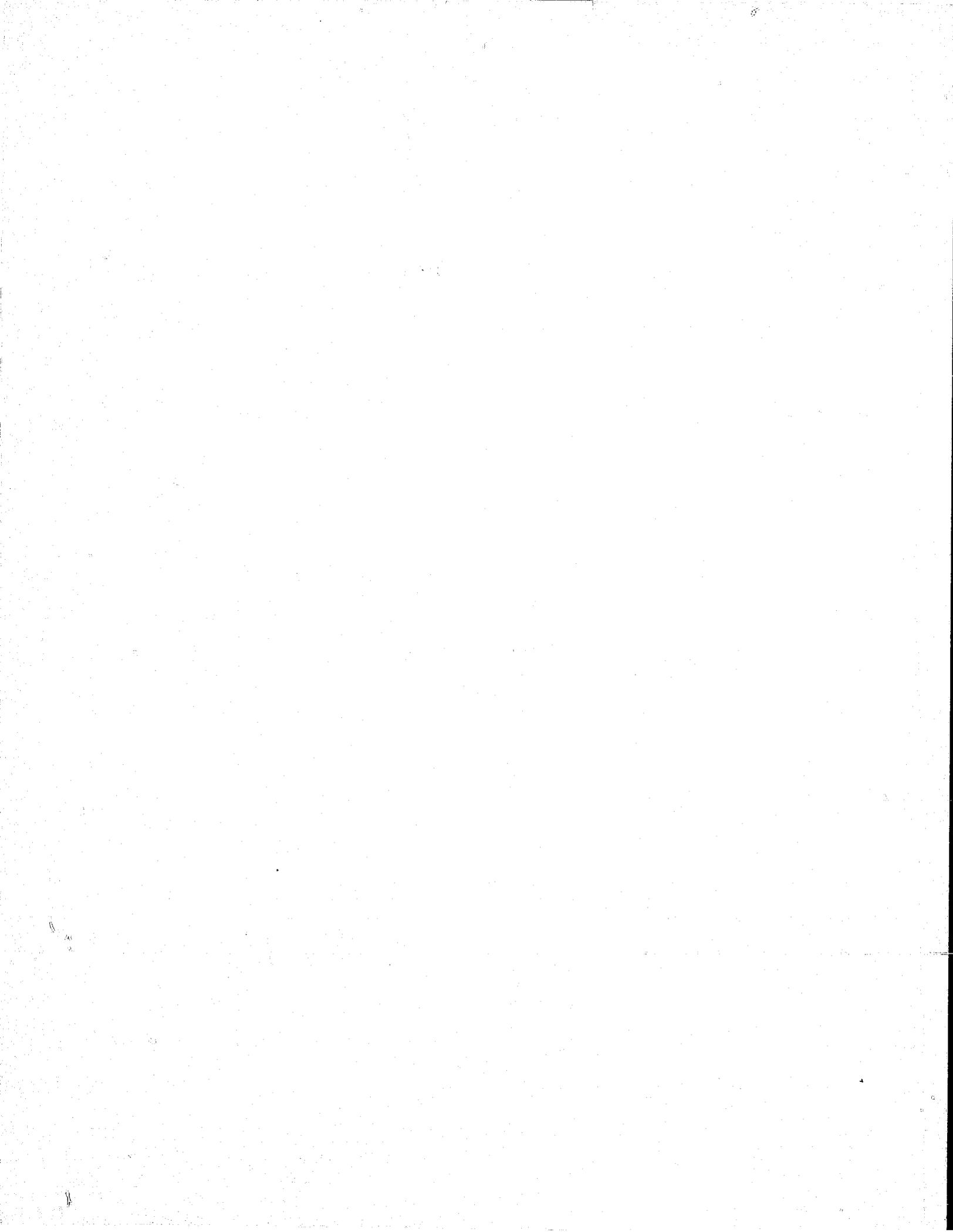
COUNTY	1970	1971	1972	1973	1974	1975	1976	TOTAL
Rusk					\$ 23,750			\$ 23,750
San Patricio			\$ 6,511	\$ 56,483	\$ 30,732	\$ 58,398		
Aransas						\$ 22,112		
Live Oak								
McMullen								\$ 174,236
Smith			\$ 44,370	\$ 42,543	\$ 45,285			\$ 132,198
Starr				\$ 14,494			\$ 10,477	\$ 24,971
Tarrant			\$ 43,320	\$102,327	\$ 43,134			\$ 188,781
Travis	\$ 65,225		\$ 58,785	\$ 87,554	\$ 33,755	\$ 5,885		
			\$ 41,425		\$ 55,569	\$164,491		
			\$ 54,520		\$111,561			\$ 678,770
Upshur						\$ 13,223		
Camp								
Marion								
Wood								\$ 13,223
Val Verde	\$ 17,177		\$ 24,053	\$ 27,345				
Edwards								
Kinney								
Maverick								
Terrell								\$ 68,575
Victoria			\$ 11,065	\$ 9,755				\$ 20,820
Walker					\$ 3,139			\$ 3,139
Wharton					\$ 17,742	\$ 18,498	\$ 3,305	\$ 39,545
Wichita			\$ 25,285		\$ 7,197			\$ 30,457
			\$ 7,035					
Wilbarger			\$ 6,049	\$ 13,895	\$ 10,513			\$ 30,457
Foard								
Hardeman								\$ 30,457
Willacy				\$ 9,731	\$ 11,570			\$ 21,301
Young				\$ 9,391	\$ 10,126			\$ 19,517
Central Texas COG		\$ 58,080						\$ 58,080
City of Texarcana				\$111,772	\$ 79,479			\$ 191,251
East Texas COG		\$ 47,036		\$ 68,006	\$ 53,227			\$ 168,269
South Texas DC			\$ 15,356					\$ 15,356
South East Texas RPC			\$139,477					\$ 139,477
<u>OTHER PROJECTS</u>								
Deep East Texas COG								
Reg Court Classes Project			\$ 20,381	\$ 17,899		\$ 18,466		\$ 56,746
Sam Houston State University								
Texas Probation Training Project			\$151,449					\$ 151,449
Bexar Co.								
Sup Unit/Bear Co. Psychia/Psychol Off				\$ 36,327	\$ 55,644			\$ 91,971
Harris Co.								
Gulf Coast Reg In-Service Training				\$ 15,988	\$ 3,931			\$ 19,919
Criminal Justice Council								
Tx Adult Prob Manual Task Force				\$ 9,501				\$ 9,501
Mueces Co.								
Psy & Goal Directed Living					\$ 3,930			\$ 3,930
Golden Crescent COG								
DWI Education & Rehab Prog					\$ 11,317			\$ 11,317
El Paso								
PIVOT							\$ 78,631	\$ 78,631

FOOTNOTES TO CHAPTER THREE

1. This discussion on legislative history is based on research by Almon Lloyd Havenstrite in A Proposed State-Administered Adult Probation and Parole System for Texas, Doctoral Dissertation, Sam Houston State University (Huntsville, 1969), Chapter 2.
2. Acts 1913, 33rd Leg., p.8.
3. Acts 1931, 42nd Leg., p.65.
4. Acts 1941, 47th Leg., p. 1334.
5. Acts 1947, 50th Leg., p. 1049.
6. Acts 1947, 50th Leg., p. 1051.
7. Commission on the Standard Probation and Parole Act of the National Council on Crime & Delinquency, Standard Probation and Parole Act (New York, 1964), p. 27.
8. Acts 1957, 55th Leg., p. 466.
9. Acts 1959, 56th Leg., p. 1081.
10. Acts 1965, 59th Leg., Vol. 2, p. 489.
11. Acts 1967, 60th Leg., p. 1946.
12. Ibid., p. 1744.
13. Acts 1973, 63rd Leg. p. 1269.
14. Acts 1975, 64th Leg. p. 572.
15. Ibid., p. 909.
16. Acts, 1907, 30th Leg.
17. Domonoske, Clair, Texas Probation and Probation Manpower--A Historical Perspective, (Job Information Center for Corrections; Institute of Contemporary Corrections, Sam Houston State University, Huntsville), p. 40.
18. Anderson, Bill, A Proposed State-Administered Juvenile Probation and Parole System for Texas, p. 15, cited in Domonoske, p. 14.

19. Richardson, Texas, The Lone Star State, (NJ, 1958) p. 315-17, cited in Domonoske, p. 11.
20. Howlett, Fred, "Probation Services in Texas: Overview," unpublished paper, Criminal Justice Division of the Governor's Office, p. 1.
21. Howlett, p. 2.
22. Information obtained from Mr. J. C. Ledbetter, Chief Probation Officer for Dallas County, phone conversation of 2/23/77.
23. Information obtained from Mr. Bill Anderson, Chief Juvenile Probation Officer for Travis County, phone conversation of 2/23/77.
24. Havenstrite, op. cit.
25. Ibid., p. 77.
26. Ibid., p. 78.
27. Ibid., p. 84.
28. Ibid., p. 85.
29. Ibid., p. 89.
30. Ibid., pp. 90-99.
31. Findings of the 1971-72 survey were never published. Information printed here is taken from undated computer printouts of data analyzed by the CJD.
32. Tallies based on information provided by CJD (computer printout of October 4, 1976).
33. Information concerning general funding trends obtained from Mr. Tom Griebel, Chief Accountant of CJD, February 9, 1977.
34. Ibid.
35. CJD computer printout of October 4, 1976.
36. Texas Adult Probation Manual Task Force, Texas Adult Probation Manual, Texas Center for the Judiciary, Austin (1975), p. 1-2.





ART. 42.12 (781d) ADULT PROBATION AND PAROLE LAW

A. Purpose of Article and Definitions

Sec. 1. It is the purpose of this Article to place wholly within the State courts of appropriate jurisdiction the responsibility for determining when the imposition of sentence in certain cases shall be suspended, the conditions of probation, and the supervision of probationers, in consonance with the powers assigned to the judicial branch of this government by the Constitution of Texas. It is also the intent of this Article to provide for the release of persons on parole and for the method thereof, to designate the Board of Pardons and Paroles as the responsible agency of State government to recommend determination of paroles and to further designate the Board of Pardons and Paroles as responsible for the investigation and supervision of persons released on parole. It is the final purpose of this Article to remove from existing statutes the limitations, other than questions of constitutionality, that have acted as barriers to effective systems of probations and paroles in the public interest.

- [1] State Constitution Art. 4, Sec. 11a., granting court having original jurisdiction of criminal actions the power, after conviction, to suspend the imposition or execution of sentence and place the defendant upon probation and to reimpose such sentence, under such conditions as the legislature may prescribe, is a limited grant of clemency to the courts by the people. State ex rel. Smith v. Blackwell (1973) 500 S.W. 2d. 97.

* * * * *

Sec. 2. This Article may be cited as the "Adult Probation and Parole Law."

Unless the context otherwise requires, the following definitions shall apply to the specified words and phrases as used in this Article:

a. "Courts" shall mean the courts of record having original criminal jurisdiction;

b. "Probation" shall mean the release of a convicted defendant by a court under conditions imposed by the court for a specified period during which the imposition of sentence is suspended;

- [2] When probation is granted, only sentencing is affected, not conviction. Where probation is granted, only the imposition of sentence is suspended. The judge or jury may grant probation only after conviction. Nealy v. State (1973) 500 S.W. 2d 122 at 125.

- [3] A person placed on probation and whose probation has not expired may be impeached as a witness by use of such probation. Burson v. State (1974) 511 S.W. 2d 948. *Also see Sec. 7, this Article.*

- [4] When a defendant is granted felony probation, his constitutional citizenship rights are suspended during the probationary period, i.e., the right to vote and serve on juries, to hold public office, right to bare arms, etc. Op. Atty. Gen. (1971) No. M-795; Op. Atty. Gen. (1972) No. M-1184.

* * * * *

c. "Parole" shall mean the release of a prisoner from imprisonment but not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Pardons and Paroles may determine. Parole shall not be construed to mean a commutation of sentence or any other form of executive clemency;

d. "Probation officer" shall mean either a person duly appointed by one or more courts of record having original criminal jurisdiction, to supervise defendants placed on probation; or a person designated by such courts for such duties on a part-time basis;

[5] A district court may exercise its probationary powers whether or not it has employed a probation officer to assist the court. Op. Atty. Gen. (1974) No. H-334. A probation "clerk" may perform some of the duties of a probation officer directly under the supervision of the court. Op. Atty. Gen. (1974) No. H-334.

* * * * *

e. "Parole officer" shall mean a person duly appointed by the Director of the Division of Parole Supervision and assigned the duties of investigating and supervising paroled prisoners to see that the conditions of parole are complied with;

f. "Board" shall mean the Board of Pardons and Paroles;

g. "Division" shall mean the Division of

Parole Supervision of the Board of Pardons and Paroles; and

h. "Director" shall mean the Director of the Division of Parole Supervision.

B. Probations

Sec. 3. The judges of the courts of the State of Texas having original jurisdiction of criminal actions, when it shall appear to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, shall have the power, after conviction or a plea of guilty for any crime or offense, where the maximum punishment assessed against the defendant does not exceed ten years imprisonment, to suspend the imposition of the sentence and may place the defendant on probation or impose a fine applicable to the offense committed and also place the defendant on probation as hereinafter provided. In all cases where the punishment is assessed by the Court it may fix the period of probation without regard to the term of punishment assessed, but in no event may the period of probation be greater than 10 years or less than the minimum prescribed for the offense for which the defendant was convicted. Any such person placed on probation, whether in a trial by jury or before the court, shall be under the supervision of such court.

- [6] Jurisdiction must be established before court can grant probation or revoke probation so granted without venue. Stanley v. State (1975) 517 S.W. 2d 538; Sarratt v. State (1976) 543 S.W. 2d 391.
- [7] After an appeal had been made to and conviction affirmed by Court of Criminal Appeals and after issuance of mandate by that court and before convict had actually begun serving sentence imposed, district was without jurisdiction to suspend execution of sentence and place convict upon probation. State ex rel. Vance v. Hatten (1974) 508 S.W. 2d 525.
- [8] It was not improper for regularly elected judge of 144th district court to sit as judge in 175th district court and accept plea of guilty and assess punishment, and, thereafter, for regularly elected judge of 175th district court, sitting in that court, to hear defendant's motion for probation. Balderas v. State (1973) 497 S.W. 2d 298.
- [9] Filing a written request for the judge to assess punishment had the effect of withdrawing any request there may have been to have the jury consider probation and constitutes a waiver thereof. Ortegon v. State, (1970) 459 S.W. 2d 646.
- [10] Defendant need not plead guilty to be entitled to probation. Overstreet v. State (1971) 470 S.W. 2d 653.
- [11] There is no constitutional right to probation. Luna v. State (1973) 493 S.W. 2d 854.
- [12] When trial is before court and motion for probation is filed, trial judge has absolute and unreviewable discretion to refuse or to grant probation. Trevino v. State (1975) 519 S.W. 2d 864; Galvan v. State (1975) 525 S.W. 2d 24.
- [13] The question of whether an accused is entitled to probation is solely a matter for the trial court's discretion. Herrera v. State (1974) 513 S.W. 2d 71.
- [14] The trial judge has the discretion to grant probation when the judge is satisfied that the ends of justice and the best interests of the public and the defendant will be served by a probated sentence, and the defendant is not under a burden of proof to show eligibility for probation when sentence is to be assessed by the judge, although the trial judge in his discretion may require such proof as he deems appropriate. Op. Atty. Gen. (1971), No. M-882.
- [15] Prosecutor's recommendation of probation pursuant to agreement with defendant was not binding upon court. Trevino v. State, supra; Kincaid v. State (1973) 500 S.W. 2d 478.

- [16] Trial court was not without authority to grant probation merely because notice of appeal had been given. Flores v. State (1972) 487 S.W. 2d at 128.
- [17] Court is without jurisdiction to grant probation after appeal is taken and mandate issued by Court of Criminal Appeals. Vance v. Hatten (1974) 508 S.W. 2d 625.
- [18] Where probation is utilized under this article, the judgment in a felony case should reflect a punishment fixed at a definite number of years and an order of probation should reflect a probationary period for a definite period of time. Op. Atty. Gen. (1976) No. H-806.
- [19] Any logical interpretation of probation laws tending to encourage granting probation if all justified is favored. Kelly v. State (1972) 483 S.W. 2d 467.

* * * * *

Sec. 3a. Where there is a conviction in any court of this State and the punishment assessed by the jury shall not exceed ten years, the jury may recommend probation for a period of any term of years authorized for the offense for which the defendant was convicted, but in no event for more than ten years, upon written sworn motion made therefor by the defendant, filed before the trial begins. When the jury recommends probation, it may also assess a fine applicable to the offense for which the defendant was convicted. When the trial is to a jury, and the defendant has no counsel, the court shall inform the defendant of his right to make such motion, and the court shall appoint counsel to prepare and present same, if desired by the defendant. In no case shall probation be recommended by the jury except when the sworn motion and proof shall show, and the jury

shall find in their verdict that the defendant has never before been convicted of a felony in this or any other State. This law is not to be construed as preventing the jury from passing on the guilt of the defendant but he may enter a plea of not guilty. In all eligible cases, probation shall be granted by the court, if the jury recommends it in their verdict, for the period recommended by the jury.

- [20] Intent of legislature is that probation for period up to 10 years may be assessed and fine may also be assessed. Maximum punishment referred to in statute applied to imprisonment only. Chudleigh v. State (1976) 540 S.W. 2d 314. Overruling Balli v. State (1975) 530 S.W. 2d 123, which stated that court could revoke probation granted on grounds that he should not have been given probation to begin with, since punishment assessed exceeded 10 year limitation when assessed 10 years prison time plus a \$1,000 fine.
- [21] Where the jury has recommended probation and the punishment assessed was imprisonment and a fine, the court must probate both although the court in its charge had recited probationary conditions include payment of fine. The court may not require the fine to be paid. Shappley v. State (1975) 520 S.W. 2d 766; Chudleigh v. State (1976) 540 S.W. 2d 314.
- [22] In this Article providing that a jury shall not recommend probation except where it finds that the defendant has never before been convicted of a felony, term "convicted of a felony" signifies a final conviction so that a conviction which is on appeal is not final for purposes of statute. Baker v. State (1975) 520 S.W. 2d 782.
- [23] The burden of proof as to accused's eligibility and entitlement to probation is upon the accused. Flores v. State (1972) 487 S.W. 2d 122, at 128; Herring v. State (1969) 440 S.W. 2d 649. Also, there is no presumption that an accused has not been convicted of a felony. He must prove it. Herring, supra.; Baker v. State (1975) 519 S.W. 2d 437.
- [24] The court erred in refusing to permit filing a motion for probation prior to voir dire of the jury on the basis that the filing was untimely. Cleveland v. State (1974) 507 S.W. 2d 769.

- [25] Where proper motion for probation is filed, the prosecutor cannot tell the jurors that they need not concern themselves with granting probation since the judge could grant same if he felt appellant was entitled to probation. Blount v. State (1974) 509 S.W. 2d 615 at 616.

* * * * *

If probation is granted by the jury the court may impose only those conditions which are set forth in Section 6 hereof.

- [26] It is considered good practice to enumerate in the court's charge the probationary conditions which the court may impose if probation is recommended by the jury. Flores v. State (1974) 513 S.W. 2d 66, citing O'Neal v. State (1967) 421 S.W. 2d 391; court in following recommendation of jury may not impose all statutory conditions of section 6 but can not impose more. O'Neal v. State, supra. However, the failure to so enumerate the said conditions is not harmful to the accused or restrictive of the court's authority. Flores v. State, supra.
- [27] This court approved making Art. 42.12, Sec. 6 conditions explicit "primarily as an aid to the offender in increasing his [probationer's] understanding of what is expected of him...The exact statutory language is not required where the court does not impose conditions other than the statutory conditions." Flores v. State (1974) 513 S.W. 2d 66.
- [28] Because the jury recommended probation, court could not require medical help of defendant who was convicted of fondling 11 year old girl. Hoagland v. State (1973) 494 S.W. 2d 186.
- [29] Court exceeded its authority in jury recommended probation to require probationer to report to MHMR counselor and in prohibiting association with any person younger than him, which implies any person younger than defendant would be disreputable. Morales v. State (1976) 541 S.W. 2d 443.
- [30] It is not improper for court to inform jury, and to incorporate requirement of a fee not exceeding \$10.00 per month to be paid to the court by probationer during probationary period, in judgment as a condition of probation. Gleffe v. State (1973) 501 S.W. 2d 672.

* * * * *

Sec. 3b. Where probation is recommended by the verdict of a jury as provided for in Sec. 3a above, a defendant's probation shall not be revoked during his good behavior, so long as he is within the jurisdiction of the court and his residence is known, except in accordance with the provisions of Sec. 8 of this Article. If such a defendant has no counsel, it shall be the duty of the court to inform him of his right to show cause why his probation should not be revoked; and if such a defendant requests such right, the court shall appoint counsel in accordance with Articles 26.04 and 26.05 of this Code to prepare and present the same; and in all other respects the procedure set forth in said Sec. 8 of this Article shall be followed.

- [31] While there is no right to either the court's or the jury's grace, once probation is granted it should not be arbitrarily withdrawn by the court; the court is not authorized to revoke without a showing that the probationer has violated a condition of probation. Where probation revocation is partially based on lack of explanation of a point complained of by the state and court did not allow reopening by counsel to explain, it was abuse of discretion to revoke probation. Butler v. State (1972) 486 S.W. 2d 331.
- [32] Revocation of probation was not improper on theory that order which required accused to appear and show cause why revocation of probation should not be granted improperly placed burden of proof upon accused where the State assumed the burden of proving violation of terms of probation at accused's hearing. Fleming v. State (1973) 502 S.W. 2d 822.
- [33] Indigent defendant has constitutional right to be represented by counsel at revocation of probation hearing where substantial rights may be affected. Ex parte Jentsch (1974) 510 S.W. 2d 320.

* * * * *

Sec. 3c. Nothing herein shall limit the power of the court to grant a probation of sentence regardless of the recommendation of the jury or prior conviction of the defendant.

[34] Power of trial court to grant probation of sentence regardless of recommendations of jury or prior conviction of the defendant is not limited, and defendant's right to equal protection of the laws is not violated by Sec. 3a, providing that persons charged with crime who have prior felony conviction may receive probation at hands of judge but not jury, while persons charged with crime who have no prior felony conviction may apply for probation from either trial judge or the jury. Washington v. State (1970) 456 S.W. 2d 907.

[35] In absence of recommendation in jury verdict that accused be placed on probation, question of whether accused is entitled to benefits of adult probation law rests within discretion of trial judge, and his decision is not appealable. Kerry v. State (1970) 452 S.W. 2d 480.

* * * * *

Sec. 3d. (a) When in its opinion the best interest of society and the defendant will be served, the court may, after receiving a plea of guilty or plea of nolo contendere, hearing the evidence, and finding that it substantiates the defendant's guilt, defer further proceedings without entering an adjudication of guilt, and place the defendant on probation on reasonable terms and conditions as the court may require and for a period as the court may prescribe not to exceed 10 years. However, upon written motion of the defendant requesting final adjudication filed within 30 days after entering such plea and the

deferment of adjudication, the court shall proceed to final adjudication as in all other cases.

(b) On violation of a condition of probation imposed under Subsection (a) of this section, the defendant may be arrested and detained as provided in Section 8 of this Article. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. No appeal may be taken from this determination. After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of probation, and defendant's appeal continue as if the adjudication of guilt had not been deferred.

(c) On expiration of a probationary period imposed under Subsection (a) of this section, if the court has not proceeded to adjudication of guilt, the court shall dismiss the proceedings against the defendant and discharge him. The court may dismiss the proceedings and discharge the defendant prior to the expiration of the term of probation if in its opinion the best interest of society and the defendant will be served. A

dismissal and discharge under this section may not be deemed a conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense, except that upon conviction of a subsequent offense, the fact that the defendant had previously received probation shall be admissible before the court or jury to be considered on the issue of penalty.

No case law or opinions have been rendered at the time of this writing for sec. 3d (a) (b) or (c).

* * * * *

Sec. 4. When directed by the court, a probation officer shall fully investigate and report to the court in writing the circumstances of the offense, criminal record, social history and present condition of the defendant. Whenever practicable, such investigation shall include a physical and mental examination of the defendant. If a defendant is committed to any institution the probation officer shall send a report of such investigation to the institution at the time of commitment.

- [36] It is desirable for trial court to utilize a presentence report, but there is no requirement that such action be taken. Trevino v. State (1975) 519 S.W. 2d 864.
- [37] Court may refuse to require a presentence investigation when one is requested by the defendant. Marr v. State (1972) 487 S.W. 2d 93.
- [38] Court should use probation officer's report and consider all pertinent information to more intelligently determine if person convicted is entitled to probation. McNeese v. State (1971) 468 S.W. 2d 800; Valdez v. State (1973) 491 S.W. 2d 415.

- [39] Evidence to be offered at punishment stage is not limited to defendant's prior criminal record, his general reputation and character, and evidence that is relevant to application for probation, if any, is also admissible. Allaben v. State (1967) 418 S.W. 2d 517.
- [40] Where trial court had ordered a presentence investigation and delayed sentencing for some 24 days, Court of Criminal Appeals, which did not know what the trial court had considered, would presume that the court gave due consideration to all pertinent information to determine if justice would be better served by granting or denying probation. Nichol v. State (1972) 480 S.W. 2d 222.
- [41] It is within the discretion of the trial court whether to disclose presentence report to the defendant. Rodriguez v. State (1973) 502 S.W. 2d 13.
- [42] If court exercises its authority under this section, the time for the defendant to file a motion for new trial or motion in arrest of judgment on the conviction does not begin to run until the date the court either grants or denies probation. Woods v. State (1976) 532 S.W. 2d 608; Ex parte Shields (1976) S.W. 2d .
- [43] The trial court is not required to disregard information in the presentence report because hearsay statements are included there. Valdez v. State, supra. *The presence of hearsay statements in a presentence report does not render the report invalid for the court's consideration. This decision is not to suggest, however, that hearsay statements in a presentence report may be considered by a trial court.*

* * * * *

Sec. 5. Only the court in which the defendant was tried may grant probation, fix or alter conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. After a defendant has been placed on probation, jurisdiction of the case may be transferred to a court of the same rank in this State having geographical jurisdiction where the

defendant is residing or where a violation of the conditions of probation occurs. Upon transfer, the clerk of the court of original jurisdiction shall forward a transcript of such portions of the record as the transferring judge shall direct to the court accepting jurisdiction, which latter court shall thereafter proceed as if the trial and conviction had occurred in that court. Any court having geographical jurisdiction where the defendant is residing or where a violation of the conditions of probation occurs may issue a warrant for his arrest, but the determination of action to be taken after arrest shall be only by the court having jurisdiction of the case at the time the action is taken.

After trial and granting probation, court may not fix or alter conditions, revoke the probation, or discharge the defendant after appeal is taken or while appeal is pending, for jurisdiction is essentially transferred to Court of Criminal Appeals.

- [44] Term of probation did not commence until mandate of Court of Criminal Appeals was issued when appeal is taken. Delorme v. State (1973) 488 S.W. 2d 808.
- [45] Term of probation commences at time order dismissing appeal is entered by Court of Criminal Appeals when appeal is taken. Ross v. State (1975) 523 S.W. 2d 402.
- [46] When court extends clemency in form of probation, relationship between court and probationer is in a way contractual, and it is court and only court which can decide whether probation is to be revoked. Lasater v. State (1970) 456 S.W. 2d 104; Espinoza v. State (1972) 486 S.W. 2d 316.

- [47] In order for court to have jurisdiction to revoke probation, both motion to revoke probation and *capias* for arrest of defendant must be issued prior to termination of period of probation. Coffey v. State (1973) 500 S.W. 2d 515; Strickland v. State (1975) 523 S.W. 2d 250.

* * * * *

Sec. 6. The Court having jurisdiction of the case shall determine the terms and conditions of probation and may, at any time, during the period of probation alter or modify the conditions; provided however, that the clerk of the court shall furnish a copy of such terms and conditions to the probationer, and shall note the date of delivery of such copy on the docket.

- [48] Conditions of probation which are authorized by sections 3a and 6 should be fleshed out to avoid vice of vagueness and uncertainty in most cases. Flores v. State (1974) 513 S.W. 2d 66.
- [49] Court has wide discretion in selecting terms and conditions but those imposed must have a reasonable relationship to the treatment of the defendant and the protection of the public. Tamez v. State (1976) 534 S.W. 2d 686.
- [50] Only court having jurisdiction of case has power to fix and determine conditions of probation and this authority may not be delegated to a probation officer or anyone else. DeLeon v. State (1971) 466 S.W. 2d 573.
- [51] Where defendant had received copy of terms and conditions of probation from the probation officer, failure of clerk to note on the docket sheet the date on which a copy of terms and conditions of probation was delivered to the defendant did not render revocation of probation an abuse of discretion. Sell v. State (1973) 501 S.W. 2d 906.
- [52] In a revocation hearing, the better practice is for the clerk or other competent witnesses to testify as to compliance with statutory duty of clerk of court to furnish probationer with a copy of terms and conditions of probation. Sell, supra.
- [53] It is mandatory for clerk to furnish probationer with a copy of the terms and conditions of probation. Stevenson v. State (1975) 517 S.W. 2d 280.

* * * * *

Terms and conditions of probation may include, but shall not be limited to, the conditions that the probationer shall:

a. Commit no offense against the laws of this State or of any other State or of the United States;

[54] Condition of probation that defendant neither commit nor be convicted of any offense against the laws of Texas is not consonant with statutory conditions because it is not dependent upon defendant's conduct following granting of probation. This contrasts with condition that probationer commit no offense which is dependent upon conduct after being placed on probation. Ex parte Moffett (1976) 542 S.W. 2d 184.

[55] This section in providing that defendant commit no offense against the laws of the State or any other State of the United States, is not intended to be limited only to offenses involving moral turpitude. Davis v. State (1974) 508 S.W. 2d 850.

* * * * *

b. Avoid injurious or vicious habits;

[56] This is only a general probation term. "Habits" is not spelled out. Ambiguous as to what constitutes injurious or vicious habits. Campbell v. State (1970) 456 S.W. 2d 918.

[57] Condition of probation that defendant abstain from use of narcotic drugs in any form, not use alcohol beverages, although departure from exact language of this Section, did not exceed authority of court. Flores v. State (1974) 513 S.W. 2d 66; Acton v. State (1975) 530 S.W. 2d 568.

In Campbell v. State (1970) 456 S.W. 2d 918, courts made reference to Black's Law Dictionary, Deluxe Fourth Edition, which defines "habit" as a "disposition or condition of the body or mind acquired by custom or a usual repetition of the same act or function....The customary conduct, to pursue which one has acquired a tendency, from frequent repetition of the same acts...." Trial courts would do well to flesh out as in Flores v. State specific acts which might apply to definition.

* * * * *

c. Avoid persons or places of disreputable or harmful character;

Cases have been tested most of which have been reversed on failure of State to prove that probationer had knowledge of reputation of person or place with whom or where associating. Some relationship has been inferred to condition (b) ("Avoid injurious or vicious habits") in that once in presence or company of person with bad reputation would not constitute knowledge of reputation or violate probation condition unless knowledge prior to the one occasion could be shown. Shortnacy v. State (1972) 474 S.W. 2d 713; Prince v. State (1972) 477 S.W. 2d 542.

[58] "Avoid persons or places of disreputable or harmful character (including places where narcotic drugs are possessed, sold or used and not associate with persons who possess, sell or use narcotic drugs, and not associate with persons of criminal record);" is the suggested fleshing out approved in Flores v. State (1974) 513 W.W. 2d 66.

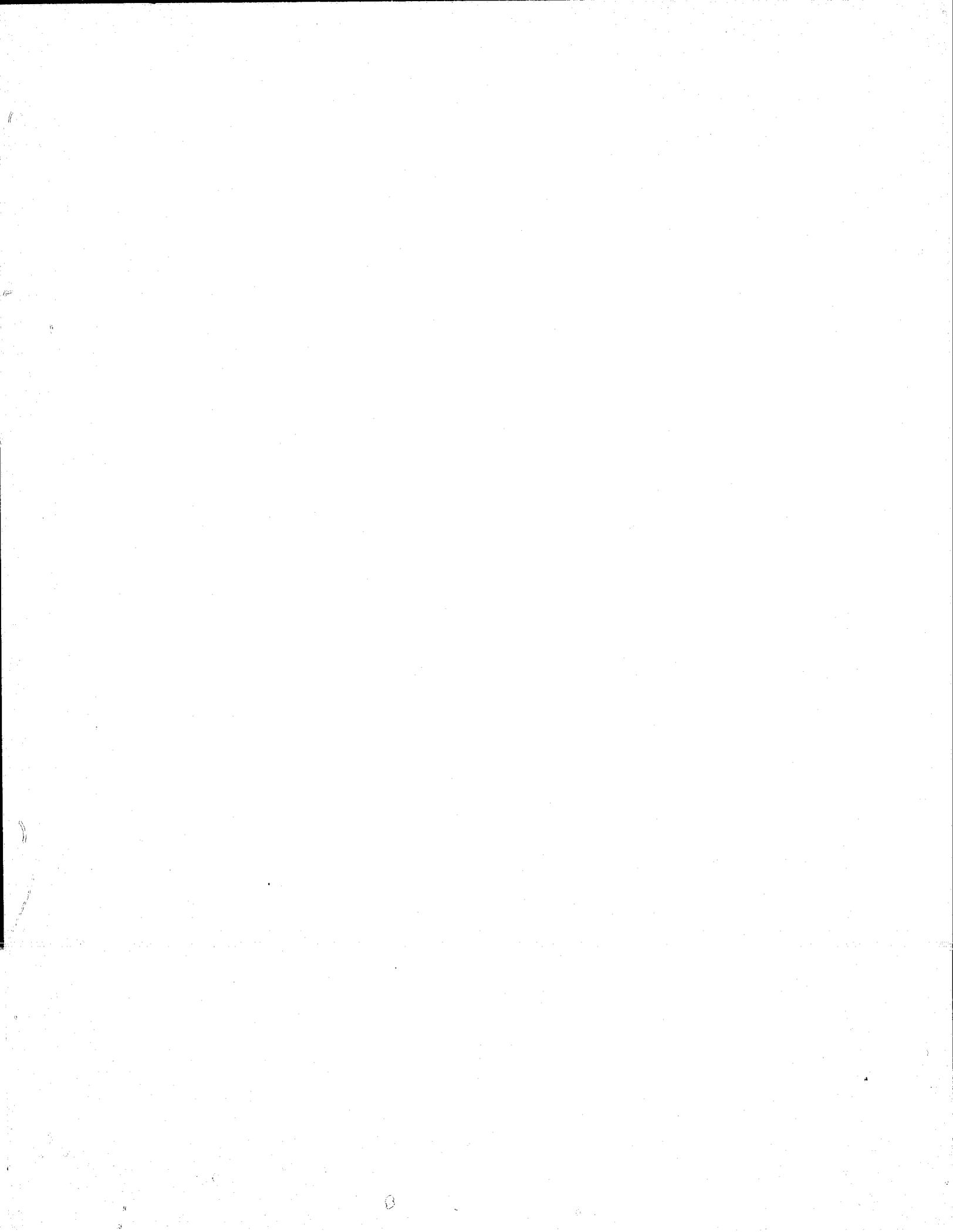
[59] "Abstain from use of intoxicating liquor and stay away from places where liquor was sold, except bona fide eating places" is a good example of making intent and conditions clear. Fields v. State (1969) 449 S.W. 2d 260.

* * * * *

d. Report to the probation officer as directed;

[60] Where term of probation was to report to probation officer monthly and probationer did not report monthly, this was enforceable condition and on proper evidence, the probation could be revoked. Cox v. State (1969) 445 S.W. 2d 200; Hardison v. State (1970) 450 S.W. 2d 638; Whiteside v. State (1971) 468 S.W. 2d 831; Esparza v. State (1972) 482 S.W. 2d 644.

[61] Better practice is for probationary condition to set forth date or dates on which probationer is to report. Graham v. State (1973) 502 S.W. 3d 809; Perkins v. State (1974) 504 S.W. 2d 458; Ross v. State (1975) 523 S.W. 2d 402.



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1 OF 5

[62] Where order required probationer to report to probation officer as directed without indicating when or how frequently defendant was to report, his probation could not be revoked on ground that he had failed to report at least once a month. Campbell v. State (1967) 420 S.W. 2d 715; DeLeon v. State (1971) 466 S.W. 2d 573; Parsons v. State (1974) 513 S.W. 2d 554; Smith v. State (1975) 527 S.W. 2d 896;

* * * * *

e. Permit the probation officer to visit him at his home or elsewhere;

f. Work faithfully at suitable employment as far as possible;

Again, many cases have been reviewed regarding this condition of probation and most have been reversed on questionable definitions of "faithfully" and "suitable".

[63] In Flores v. State (1974) 513 S.W. 2d 66, the fleshing out of this probation term was recognized and accepted by the reviewing court. Therein the term was stated "obtain and keep gainful employment in a lawful occupation."

* * * * *

g. Remain within a specified place;

[64] That probationer was to "report any change of address within 24 hours" could not be enforced inasmuch as condition did not make clear to whom he was required to make such report. Campbell v. State (1967) 420 S.W. 2d 715. Better said by "report any change of address to adult probation officer within _____ hours." Flores v. State (1974) 513 S.W. 2d 66. Properly said another way: "Remain within confines of (county or area named) state of Texas during the term of probation except by written permission of this court, to be filed with the clerk of this court." Stout v. State (1973) 500 S.W. 2d 153.

* * * * *

h. Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or

reparation in any sum that the court shall determine; and

- [65] Court is not precluded from requiring defendant to pay restitution when probation is recommended by jury. Flores v. State (1974) 513 S.W. 2d 66.
- [66] Where probation conditions relate to payment of court costs, court should consider probationer's ability to make payments assessed. Barber v. State (1972) 486 S.W. 2d 352; Harrington v. State (1976) 534 S.W. 2d 331.
- [67] Where restitution is imposed as a condition of probation, before revocation could be sustained, the court must take into account the probationer's ability to make the payments required. Denton v. State (1974) 511 S.W. 2d 311.

* * * * *

i. Support his dependents.

- [68] Proof merely of failure to support is not sufficient to sustain revoking of probation. Pool v. State (1971) 471 S.W. 2d 863.

* * * * *

Sec. 6a. (a) A court granting probation may fix a fee not exceeding \$10 per month to be paid to the court by the probationer during the probationary period. The court may make payment of the fee a condition of granting or continuing the probation.

- [69] This condition may be imposed in probation order whether sentence is by jury or by the court. Gleffe v. State (1973) 501 S.W. 2d 672; White v. State (1974) 511 S.W. 2d 528.
- [70] Court should set date for fees to begin and date and place on which subsequent monthly payments should be made. Cotton v. State (1971) 472 S.W. 2d 526.

* * * * *

(b) The Court shall distribute the fees received under Subsection (a) of this section to the county or counties in which the court has jurisdiction for use in administering the probation laws. In instances where a district court has jurisdiction in two more counties, the court shall distribute the fees received to the counties in proportion to population as prescribed by Paragraph 7, Section 10 of this Article.

[71] Upon the receipt of such fees by a court, it shall distribute such fees to the county; such fees may be thereafter distributed in same manner as other county funds for the purposes set out in this opinion. Op. Atty. Gen. (1971) No. M-784.

* * * * *

Sec. 6b. (a) When the court having jurisdiction of the case grants probation to the defendant, in addition to the conditions imposed under Section 6 of this article, the court may require as a condition of probation that the defendant submit to a period of detention in a penal institution to serve a term of imprisonment not to exceed 30 days or one-third of the sentence whichever is lesser.

(b) The imprisonment imposed shall be treated as a condition of probation, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such

subsequent imprisonment.

No case has been found on appeal where this condition or term of probation was basis for complaint.

* * * * *

OTHER SPECIAL CONDITIONS WHICH THE TRIAL COURT
MAY IMPOSE WHEN SENTENCING IS BY THE COURT

"() Shall abstain from use of alcoholic beverages while driving;"

- [72] Proving degree of "intoxication" while driving was not necessary. Mennis v. State (1973) 503 S.W. 2d 266.

"() During the period of probation, shall be at his place or recorded residence no later than _____ P.M. on week nights and no later than _____ (P.M.)(A.M.) on weekend nights unless working at a job or in school which has been reported to the probation officer or otherwise have in his possession written permission from the probation officer to be away from his residence on specific occasions;"

- [73] A curfew may be imposed when it appears to be in reasonable relationship to the need of the defendant for rehabilitation and protection of the public. Salinas v. State (1974) 514 S.W. 2d 754.

"() Shall not possess or exercise control over any type firearm (rifle, shotgun, pistol, etc.) during the period of probation;"

- [74] Federal Gun Control Act. Nealy v. State (1973) 500 S.W. 2d 122.

"() Pay to the probation officer at his office for remittance to the clerk of this court, \$ _____ at the rate of \$ _____ per month beginning date for reparation of court appointed counsel;"

- [75] Probation conditioned upon reimbursing the county for the fees and expenses of an attorney and investigator whose services had been provided because of indigency does not violate the Equal Protection Clause of the Fourteenth Amendment. The statutory distinction between those who are convicted, on the one hand, and those who are not or whose convictions are reversed, on the other, is not an invidious classification, since the law does not impose a repayment obligation on a defendant in a prosecution that does not end in a conviction and does not infringe upon a defendant's right to counsel since the knowledge that he may ultimately have to repay the costs of legal services does not affect his ability to obtain such services. Thus he is not penalized in exercising his constitutional rights. Defendants with no likelihood of having the means to repay should not even be conditionally obligated to do so, and those thus obligated are not subjected to collection procedures until their indigency has ended and no manifest hardship will result. Fuller v. Oregon (1974) 417 U.S. 40, 40 L Ed 2d 642, 94 S.St. 2116.

"() Shall enter or commit himself not later than date to Name and address of place for treatment for give identified reason or problem and thereafter participate in programs offered and recommended by the Name of agency and not leave, withdraw or avoid said place of treatment unless on the recommendation of Name administrator or his official designate and with approval of this court;"

- [76] Enrollment in a treatment center and/or a driver's education class may be made a condition of probation by the court. Op. Atty. Gen. (1971) No. M-985.

"() Shall pay \$ _____ per month to Name agency where treatment is received during the period of said treatment;"

- [77] If the court and not the jury grants probation the defendant may, within his ability to pay, be required to pay for the expenses of treatment. Op. Atty. Gen. (1974) No. H-234.

SPECIAL CONDITIONS WHICH THE COURT
MAY NOT IMPOSE

- [78] ...anything with regard to requiring probationer to submit his person, residence and vehicle to search by any peace officer at any time, day or night. This infringes upon his rights under the Fourth and Fourteenth Amendments to the United States Constitution and under Article 1, Sec. 9 of the State Constitution and is not reasonable. Although this condition might be accepted by him to get probation, it is in legal effect coercion. Tamez v. State (1976) 534 S.W. 2d 686.
- [79] The court may not require, as a condition of probation, that the probationer leave the State or the country and not reenter the state or the United States without consent of the court. This is in violation of the Texas Constitution Article 1, Sec. 20 and Article 1.18 C.C.P. "that no citizen shall be outlawed nor shall any person be transported out of the State for any offense committed within same." Even proof that the probationer is an alien would not authorize the State court to transport him out of the United States. Williams v. State (1975) 523 S.W. 2d 953; Aldana v. State (1975) 523 S.W. 2d 951.

* * * * *

Sec. 7. At any time, after the defendant has satisfactorily completed one-third of the original probationary period or two years of probation, whichever is the lesser, the period of probation may be reduced or terminated by the court. Upon the satisfactory fulfillment of the conditions of probation, and the expiration of the period of probation, the court, by order duly entered, shall amend or modify the original sentence imposed, if necessary, to conform to the probation period and shall discharge the defendant. In case the defendant has been convicted or has entered a plea of guilty or a plea of nolo contendere, and the court has discharged the defendant

hereunder, such court may set aside the verdict or permit the defendant to withdraw his plea, and shall dismiss the accusation, complaint, information or indictment against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted or to which he has pleaded guilty, except that proof of his said conviction or plea of guilty shall be made known to the court should the defendant again be convicted of any criminal offense.

[80] An individual who has received a suspended sentence under Vernon's Ann. C.C.P. 1925, Art. 776a, in force at that time, may not have his sentence reduced or terminated under Sec. 7 of this Article. Op. Atty. Gen. (1967), No. M-27.

[81] Where probationer has served less than one-third or two years of probation imposed, trial court is without authority to discharge the defendant from probation. And although probation was terminated by court, it was premature and had no effect to exempt him from impeachment as a witness. Hall v. State (1974) 509 S.W. 2d 627.

The rulings in Delorme v. State (1973) 488 S.W. 2d 808, "where an appeal is taken, terms of probation did not commence until mandate of Court of Criminal Appeals was issued," and Ross v. State (1975) 523 S.W. 2d 402, "term of probation would commence at time order dismissing appeal was entered" would control the time for the one-third of the original probationary period or two years of probation whichever is less.

[82] Probation which had been set aside after term of probation had expired was not admissible to impeach defendant, especially where court had granted new trial, set aside conviction and dismissed case. Parker v. State (1965) 384 S.W. 2d 712.

Parker v. State would hold even now because there was no change in Sec. 7, Art. 42.12, 1965 from Sec. 7, Adult Probation and Parole Law of 1957, upon which Parker v. State relied.

- [83] When court has followed procedure established by this section, rights are restored and the person is eligible to hold office. Op. Atty. Gen. (1972) No. M-1184.
- [84] When a person has been discharged, and the court has set aside the verdict or permitted him to withdraw his plea and the court has dismissed the accusation, complaint, information, or indictment and he has regained his civil rights, he may not truthfully state he has never been "convicted" of a felony in an application for employment. Op. Atty. Gen. (1970) No. M-640.
- [85] Even after term of probation has expired a defendant may not be issued a voter registration certificate until the trial court wherein the "conviction" was had has set aside the complaint, information or indictment as authorized by this section. Op. Atty. Gen. (1971) No. M-795.
- [86] A person who has been placed on probation and whose probation has not expired may be impeached as a witness by use of such probation. Burson v. State (1974) 511 S.W. 2d 948.
- [87] The terms "convicted", or "finally convicted" as used in the Texas Liquor Control Act do not include a conviction where the sentence is probated under the terms of Article 42.12 unless and until probation is revoked and the court enters judgement on the findings of guilty. Op. Atty. Gen. (1966) No. C-787.

Sec. 8. (a) At any time during the period of probation the court may issue a warrant for violation of any of the conditions of the probation and cause the defendant to be arrested. Any probation officer, police officer or other officer with power of arrest may arrest such defendant without a warrant upon the order of the judge of such court to be noted on the docket of the court. A probationer so arrested may be detained in the county jail or other appropriate place of detention until he can be taken before the court. Such

officer shall forthwith report such arrest and detention to such court. If the defendant has not been released on bail, on motion by the defendant the court shall cause the defendant to be brought before it for a hearing within 20 days of filing of said motion, and after a hearing without a jury, may either continue, modify, or revoke the probation. The court may continue the hearing for good cause shown by either the defendant or the state. If probation is revoked, the court may proceed to dispose of the case as if there had been no probation, or if it determines that the best interests of society and the probationer would be served by a shorter term of imprisonment, reduce the term of imprisonment originally assessed to any term of imprisonment not less than the minimum prescribed for the offense of which the probationer was convicted.

- [88] Probationer was not entitled to preliminary hearing to determine probable cause prior to final hearing on motion to revoke probation. Grant v. State (1974) 505 S.W. 2d 259; Detrick v. State (1977) 545 S.W. 2d 835.
- [89] Where motion to revoke probation was filed after probationary period had ended, was untimely and probation could not be revoked. Howard v. State (1973) 495 S.W. 2d 252; Nicklas v. State (1975) 530 S.W. 2d 537.
- [90] Both motion to revoke and *capias* for arrest must be issued prior to end of probation period. Coffey v. State (1973) 500 S.W. 2d 515.
- [91] With both motion to revoke and *capias* for arrest being filed before period of probation ended, the actual arrest of probationer need not be accomplished before probation

period ended and court may revoke probation on hearing after period of probation has ended. But allegations would be limited to those prior to the expiration of the probationary period. Stanley v. State (1975) 517 S.W. 2d 538.

- [92] Amendment to motion to revoke probation filed after expiration of probationary period did not confer jurisdiction of court and was a nullity. Guillot v. State (1976) 543 S.W. 2d 650.
- [93] Permitting state to amend its motion to revoke probation to allege violation from arrest for possession and sale to just sale of heroin was not abuse of discretion. Barber v. State (1972) 486 S.W. 2d 352.
- [94] Rules applicable to amendment of indictments did not apply to amendment to motion to revoke probation. Cabrera v. State (1973) 494 S.W. 2d 177.
- [95] Issuance of *capias* for defendant's arrest for breach of conditions of probation did not toll term of probation. Nicklas v. State (1975) 530 S.W. 2d 537.
- [96] Where motion to revoke probation fails to fully inform probationer, he is denied rudiments of due process. Tamez v. State (1976) 534 S.W. 2d 686; Garner v. State (1977) 537 S.W. 2d 31.
- [97] Motion to revoke probation does not require that information or indictment for any misdemeanor be presented within two years from commission of offense. Cotton v. State (1975) 523 S.W. 2d 673.
- [98] Probation officers are exempted from provisions of Article 46.03 P.C. and may be entitled to carry a pistol while carrying out orders of a court to arrest a probationer without a warrant. Op. Atty. Gen. (1973) No. H-167.
- [99] A probationer is not entitled to bail as a matter of right pending a hearing on the State's motion to revoke probation, but a person so situated may be admitted to bail by the court in the exercise of its discretion. Ex parte Ainsworth (1976) 532 S.W. 2d 640.
- [100] Where defendant in motion to revoke probation, not admitted to bail, files his motion for hearing on probation revocation and 21 days later no such hearing was held, and he remained in custody, and although court later released him on his own personal bond, it was mandatory that the court also dismiss the motion to revoke probation. Trillo v. State (1976) 540 S.W. 3d 728. Writ of habeas corpus is proper procedure. Id.
- [101] Hearing on revocation of probation is not an adversarial proceeding, a civil action, or a criminal prosecution but is administrative in nature, a means of protecting society

and rehabilitating law breakers. Hill v. State (1972) 480 S.W. 2d 200, certiorari denied 93 S. Ct. 694, 409 U.S. 1078, 34 L. Ed. 2d 667.

- [102] Hearing on motion to revoke probation is not a criminal prosecution such as would entitle the accused to a jury trial. Barrow v. State (1974) 505 S.W. 2d 808. But due process applies to probation revocation hearings. Spencer v. State (1974) 503 S.W. 2d 557.
- [103] While it would be commendable practice to require state to place order of probation in evidence in proceeding to revoke probation, failure to do so was not error since instrument was court record of which court might take judicial notice. Mason v. State (1973) 495 S.W. 2d 248; Fleming v. State (1973) 503 S.W. 2d 822.
- [104] The admonishments required for taking pleas set forth in Art. 26.13 C.C.P. do not apply in revocation of probation proceedings, Harris v. State (1974) 505 S.W. 2d 576.
- [105] A second motion to revoke probation heard by the same court on the same evidence did not twice place the probationer in jeopardy. Bass v. State (1973) 501 S.W. 2d 643. Certiorari denied 94 S. Ct. 1563, 415 U.S. 977, 39 L. Ed. 2d 873.
- [106] Failure to give appointed counsel 10 days to prepare for trial is not grounds for reversing a revocation of probation. Jacobs v. State (1973) 500 S.W. 2d 521.
- [107] Trial court on hearing motion to revoke, continued probation, amending conditions to include "No reduction if revoked and automatic revocation if any other violation." Thereafter, the court entered an order revoking the probation on "Allegation of New Theft." Court holds that when trial court has in its discretion continued probation after revocation proceeding although evidence was adequate to revoke the probation, it could not then subsequently arbitrarily withdraw the continuation. This would violate due process, due course of law of land and fundamental fairness. A new evidentiary hearing on the new allegations would be required. Wester v. State (1976) 542 S.W. 2d 403.
- [108] Probationer is on probation until moment of revocation. Nichols v. State (1974) 501 S.W. 2d 333. *Trial court may therefore continue, modify, amend or dismiss the terms and conditions of probation.*
- [109] The court has no authority after granting probation for one offense to revoke that probation for another offense committed prior to granting of probation. Condition of probation "neither commit nor be convicted of any offense against the laws of Texas" is not consonant with statutory conditions

because it is not dependant upon defendant's conduct following granting of probation. Ex parte Moffett (1976) 542 S.W. 2d 184.

- [110] Probation may not be revoked upon finding of any violation of law other than that alleged or necessarily included within allegations of that alleged in motion to revoke. Pickett v. State (1976) 542 S.W. 2d 868.
- [111] Probation may not be revoked while conviction is on appeal. Delorme v. State (1973) 488 S.W. 2d 808 at 810.
- [112] Practice of relying on a conviction of probationer to show the commission of a penal offense in violation of condition of probation is not advisable, since even where conviction is final it may be successfully attacked by post-conviction habeas corpus application. Spencer v. State (1974) 503 S.W. 2d 557.
- [113] All conditions of probation which obligate the defendant to make money payments (court costs, fines, supervisory fees, restitution, dependant support, fees for treatment, reparation for court appointed attorney, etc.) cannot be enforced except on showing both ability to pay and that failure to do so was intentional. Isabell v. State (1973) 494 S.W. 2d 572; Denton v. State (1974) 511 S.W. 2d 311; Herrington v. State (1976) 534 S.W. 2d 331.
- [114] Revocation of probation does not subject defendant to being placed in jeopardy twice for same crime. Valdez v. State (1973) 508 S.W. 2d 842.
- [115] Proof offered in proceeding must meet allegations of state's motion to revoke. Whitney v. State (1971) 472 S.W. 2d 524. Revocation of probation is an abuse of discretion in absence of sufficient competent evidence to support the allegations. Kubat v. State (1974) 503 S.W. 2d 258.
- [116] Standard of proof that State must meet in a probation revocation case is not proof beyond a reasonable doubt, but rather proof of a preponderance of evidence. Woods v. State (1976) 533 S.W. 2d 16; Maden v. State (1976) 542 S.W. 2d 189.
- [117] Although proof relied on, in revocation proceedings, is by preponderance of evidence, the State is not relieved of the burden of proving every element of offense. Reed v. State (1976) 533 S.W. 2d 35.
- [118] In light of conflicting evidence as to whether probationer was drunk or had been drinking on particular occasion in violation of condition of probation that he not drink intoxicating beverages of any kind, trial court did not abuse discretion in revoking probation, Pearson v. State (1972) 486 S.W. 2d 576.

- [119] Strong smell of marijuana in apartment where probationer was, was enough for him to have knowledge he was at harmful place in violation of his probation. Kelly v. State (1972) 483 S.W. 2d 467.
- [120] Where probationer admitted to probation officer the use of narcotics this was sufficient to sustain revocation of probation conditioned that he abstain from the use of narcotic drugs. Cunningham v. State (1972) 488 S.W. 117.
- [121] Oral statements of probationer, who was not under arrest, to probation officer that he had left county and gone out of state without permission were not inadmissible on ground they were obtained in violation of Art. 38.22 regarding use of oral and written confessions or that defendant was not advised of his right to counsel and to remain silent. Bustamante v. State (1973) 493 S.W. 2d 921.
- [122] Uncorroborated confession of probationer constitutes sufficient evidence to revoke probation. Bush v. State (1974) 506 S.W. 2d 603.
- [123] That probationer was taken into custody in Kansas City, Mo., and that he did not have permission of either the court or the probation officer to leave Texas county was sufficient to support revocation for violation of condition that he not leave Texas county without permission. Johnson v. State (1973) 498 S.W. 2d 198.
- [124] Duly authenticated records from sister state which included a picture of defendant, plus a physical description, including tattoos and missing fingers, as well as a recitation of defendant's burglary conviction in that state, constituted sufficient information to enable court on motion to revoke hearing, to look at defendant before him and conclude that he was same person who had been convicted in sister state. Johnson v. State (1967) 410 S.W. 2d 785.
- [125] Arresting officer viewing defendant in parking lot with companion in vehicle did not sufficiently corroborate unknown informant's tip that defendant would be there with marijuana and fact that officer knew defendant was on probation for drug offense did not constitute probable cause for warrantless arrest and search. Rushing v. State (1973) 500 S.W. 2d 667.
- [126] Proof in proceeding to revoke probation that person being proceeded against is person who had received probation at earlier date is required. Cannon v. State (1972) 479 S.W. 2d 317; Batiste v. State (1975) 530 S.W. 2d 588.

- [127] Trial court is not accorded absolute discretion in decision to revoke probation. Although judge is trier of facts, credibility of witnesses, and weight to be given to testimony, the evidence considered for the state must clearly outweigh the conflicting evidence. Scamarao v. State (1974) 517 S.W. 2d 293.
- [128] Revocation of probation for violation of condition of probation that probationer observe a 9:00 P.M. curfew every night was not abuse of discretion. Salinas v. State (1974) 514 S.W. 2d 754.
- [129] Decision to imprison defendant who was heroin addict rather than commit him to Narcotics Rehabilitation Act Program after his probation was revoked was not an abuse of discretion. Regalado v. State (1973) 494 S.W. 2d 185.
- [130] Where accused requested that state court delay (continue) holding probation revocation hearing until after adjudication of federal prosecution against him and he did not request speedy hearing, it was not violation of Constitutional right to speedy trial for court to delay hearing on motion to revoke probation. Guerra v. State (1975) 518 S.W. 2d 815.
- [131] An accused is entitled to a swift adjudication in a probation revocation. McClure v. State (1973) 496 S.W. 2d 588.
- [132] Trial court was not required to conduct new hearings on the motions to revoke before entry of orders where appellate court set aside orders that did not clearly explain findings and conclusions upon which they were made, but rather could merely enter new orders and set out findings upon which the probations were revoked. Garcia v. State (1973) 499 S.W. 2d 126.
- [133] The law is clear that the reduction of original punishment when probation is revoked is left to sound discretion of trial court. Cannon v. State (1976) 537 S.W. 2d 31.
- [134] Where accused had originally been convicted and placed on probation for possession of marijuana at time that the crime was a felony, and probation was revoked after the crime became a misdemeanor, the court, in sentencing accused after revocation, could not sentence him as a misdemeanor but was required to sentence him to prison as a felony. State ex rel. Pettit v. Thurmond (1974) 516 S.W. 2d 119.

[135] Accused was entitled to credit on sentence for time he spent in jail pending hearing on motion for revocation of probation. Guerra v. State (1975) 518 S.W. 2d 815.

[136] Where probation is revoked on evidence of new conviction, court was free to cumulate the revoked probated sentence with prior outstanding sentence. Spencer v. State (1974) 503 S.W. 2d 557.

* * * * *

(b) Any probationer who removes himself from the State of Texas without permission of the court having jurisdiction of the case, shall be deemed and considered a fugitive from justice and shall be subject to extradition as now provided by law. No part of the time that the defendant is on probation shall be considered as any part of the time that he shall be sentenced to serve. The right of the probationer to appeal to the Court of Criminal Appeals for a review of the trial and conviction, as provided by law, shall be accorded the probationer at the time he is placed on probation. When he is notified that his probation is revoked for violation of the conditions of probation and he is called on to serve a sentence in a jail or in an institution operated by the Department of Corrections, he may appeal the revocation.

[137] Article 42.11 CCP controls both supervision of Texas probationers in other states as well as the return of Texas probationers to Texas on violation of probationary conditions including those who remove themselves from Texas without permission of the courts. The Uniform Act For Out-of-State Parolee Supervision does not require

a transfer of supervision of probationer when permission is granted probationer to leave the state. Cox v. State (1969) 445 S.W. 2d 200. However, if this practice is followed, State of jurisdiction is not entitled to arrest defendant in another state for probation violation where defendant was not being supervised in state where he is found. Ex parte Chambers (1975) 525 S.W. 2d 191.

- [138] After a person is convicted and granted probation, he may appeal such conviction. Burson v. State (1974) 511 S.W. 2d 948.
- [139] Defendant may attack conviction from revocation of probation through writ of habeas corpus. Ex parte Lewis (1976) 544 S.W. 2d 430.
- [140] Defendant may not generally raise alleged errors at original trial on appeal from revocation of his probation. Burrell v. State (1973) 492 S.W. 2d 482; general rule is that failure to appeal when placed on probation waives right to review. Heiskell v. State (1975) 522 S.W. 2d 477.
- [141] Failure of court to properly admonish defendant at time of trial where plea was accepted and probation granted and denial of the right to counsel could be raised upon appeal from order revoking probation. Perkins v. State (1974) 504 S.W. 2d 458; Rameriz v. State (1972) 486 S.W. 2d 373.
- [142] After court revoked probation and reduced sentence it cannot then, upon appeal of revocation, rescind its order reducing the term and increase it. Colburn v. State (1973) 501 S.W. 2d 680.
- [143] Defendant is entitled to calendar time spent in custody when appeal is taken on revocation of probation and he can not make bail if he has elected to spend waiting time in county jail rather than in Texas Department of Corrections. Good time credit while waiting in county jail, after he and records are received at T.D.C., is optional with authorities at T.D.C.. Neither court nor sheriff may award good time credit for time waited in county jail when sentenced to T.D.C. Gardner V. State (1976) 542 S.W. 2d 127.

* * * * *

Sec. 9. If, for good and sufficient reasons, probationers desire to change their residence within the State, such transfer may be effected by application to their supervising probation officer, which transfer shall be subject to the court's consent and subject to such regulations as the court may require in the absence of a probation officer in the locality to which the probationer is transferred.

This section leaves a distinct impression that the probation officer should or should not recommend a change of residence within the state and that the court should give its consent or reject the application for change of residence. Further, Sec. 5 of this article should be followed regarding transfer of jurisdiction unless there is no probation officer in the locality to which the probationer is transferred.

- [144] Revocation of probation on condition that probationer not leave the county without the permission of the probation officer and consent of the court could not stand when evidence failed to show he did not have consent of the court although it was shown that probation officer had refused, on request, to give him permission to leave. "Absconding" allegation is just another way of saying he did not report and he left county without permission and consent. Parsons v. State (1974) 513 S.W. 2d 554.
- [145] Evidence must show that defendant left the county without consent of the court and must show beyond testimony of probation officer that he was gone, that he did in fact leave. Herrington v. State (1976) S.W. 2d 331.
- [146] Where probationer was taken into custody in other state (other county) and returned in custody by deputy of county of jurisdiction it could be proven by testimony of deputy that he did leave, when shown that he did not have court's consent. Johnson v. State (1973) 498 S.W. 2d 198.

* * * * *

Sec. 10. For the purpose of providing adequate probation services, the district judge or district judges having original jurisdiction of criminal actions in the county or counties, if applicable, are authorized, with the advice and consent of the commissioners court as hereinafter provided, to employ and designate the titles and fix the salaries of probation officers and such administrative, supervisory, stenographic, clerical, and other personnel as may be necessary to conduct pre-sentence investigations, supervise and rehabilitate probationers, and enforce the terms and conditions of probation. Only those persons who have successfully completed education in an accredited college or university and two years full time paid employment in responsible probation or correctional work with juveniles or adults, social welfare work, teaching or personnel work; or persons who are licensed attorneys with experience in criminal law; or persons who are serving in such capacities at the time of the passage of this Article and who are not otherwise disqualified by Section 31 of this Article, shall be eligible for appointments as probation officers; providing that additional experience in any of the above work categories may be substituted year for year for the required college education, with a maximum substitution of

two years. Provided, however, that in a county having a population of less than 50,000 according to the last preceding Federal census, any person having completed at least two years education in an accredited college or university will be eligible for appointment.

- [147] It being the intent of this article to create district-wide probation services, the employment and designation of adult probation officers is not subject to the approval of the county commissioners' court. Op. Atty. Gen. (1969) No. M-393.
- [148] District judges have responsibility for appointing probation officers and designating the salaries, but should consult with and seek advice of commissioners' court or courts involved so that they may have information necessary for determination of proper probation program. The statutory language "with advice and consent" means: "consent" required of commissioners' court is to budget, appropriate and pay expenditures established for salaries of probation personnel so long as the expenditures are necessary and reasonable to discharge essential business. Burden of proof must rest with commissioners' court to show that district judges' actions are so unreasonable, arbitrary or capricious as to amount to abuse of discretion. Commissioners' Court of Lubbock County v. Martin (1971 Civ. App.) 471 S.W. 2d 100, ref. n.r.e..
- [149] Words "advice and consent of the commissioners" were not intended to confer veto power on commissioners' court or to give such court authority in lieu of that required of the district judge. Commissioners' Court of Hays County v. District Judge, 22nd Judicial District of Hays County (1974 Civ. App.) 506 S.W. 2d 630.
- [150] Adult probation officers are not subject to the County Civil Service Act, (Vernon's Ann. Civ. St., Art. 2372h-6). Op. Atty. Gen. (1975), No. H-619. This Act relates to counties of 300,000 population or more.
- [151] Since probation needs and services differ in various judicial districts, ranging from multijudicial districts within a single county to one judicial district embracing as many as six counties, setting of compensation and number of personnel was left to local authority. Commissioners' Court of Lubbock County v. Martin (1971 Civ. App.) 471 S.W. 2d 100, ref. n.r.e..

- [152] Adult probation officers are district officers and must be qualified as set forth in section 10 of this article. The statute does not provide for county probation officers as such. Op. Atty. Gen. (1969) No. M-336.

Sec. 31, Art. 42.12 C.C.P. [cited below]. No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas ranger, state highway patrolman, or similar law enforcement officer, or as a prosecuting attorney shall act as a parole officer or be responsible for the supervision of persons on parole.

- [153] Sheriff should not have been called upon to act as probation officer. In light of the provisions of Secs. 10 and 31 of Article 42.12 Vernon's Ann. C.C.P., the sheriff should not be called upon to act as probation officer. Further, the Standards Relating to Probation, American Bar Association Project on Standards for Criminal Justice, Sec. 6.1 (approved draft) provides as follows:

"Legislative responsibility; administrative structure

(a) Legislative bodies should appropriate sufficient funds so that all trial courts administering criminal justice will have adequate probation services and personnel in order to implement properly the standards developed in this report.

(b) It is appropriate for probation services to be administered at either the state or local level, but in no event should control be vested in an agency having prosecutorial functions."

Hilts v. State (1972) 476 S.W. 2d 283.

- [154] Duties of office of sheriff, including acting as probation officer, devolved upon the successor in office. This court calls attention to Hilts v. State and urges that probation should not be administered by an agency having prosecutorial functions. Perkins v. State (1974) 504 S.W. 2d 458.

- [155] A probation "clerk" may perform some of the duties of a probation officer directly under the supervision of the court. Op. Atty. Gen. (1974) No. H-334.

[156] Portion of statute relating to qualifications in less than 50,000 population county is inapplicable, except in those instances when a one-county judicial district contains less than 50,000 population.
Op. Atty. Gen. (1969) No. M-336.

* * * * *

It is the further intent of this Article that the caseload of each probation officer not substantially exceed seventy-five probationers.

Where more than one probation officer is required, the judge or judges shall appoint a chief adult probation officer or director, who, with their approval, shall appoint a sufficient number of assistants and other employees to carry on the professional, clerical, and other work of the court.

The judge or judges, with the approval of the juvenile board of the county, may authorize the chief probation or chief juvenile officer to establish a separate division of adult probation and appoint adult probation officers and such other personnel as required. It is the further intent of this Act that the same person serving as a probation officer for juveniles shall not be required to serve as a probation officer for adults and vice-versa.

The judge or judges may, with the approval of the director of parole supervision, designate a parole officer or supervisor employed by the

Division of Parole Supervision as a probation officer for the county or district.

Probation officers shall be furnished transportation, or alternatively, shall be entitled to an automobile allowance for use of personal automobile on official business, under the same terms and conditions as is provided for sheriffs.

The salaries of personnel, and other expenses essential to the adequate supervision of probationers, shall be paid from the funds of the county or counties comprising the judicial district or geographical area served by such probation officers. In instances where a district court has jurisdiction in two or more counties, the total expenses of such probation services shall be distributed approximately in the same proportion as the population in each county bears to the total population of all those counties, according to the last preceding or any future Federal Census. In all the instances of the employment of probation officers, the responsible judges and county commissioners are authorized to accept grants or gifts from other political subdivisions of the state or associations and foundations, for the sole purpose of financing adequate and effective probationary programs in the various parts of the state. For the purposes of this Act, the municipalities of this state are

specifically authorized to grant and allocate such sums of money as their respective governing bodies may approve to their appropriate county governments for the support and maintenance of effective probationary programs. All grants, gifts, and allocations of the character and purpose described in this section shall be handled and accounted for separately from other public funds of the county.

- [157] The expenses of the adult probation office must be prorated among the various counties in the district according to population. Op. Atty. Gen. (1969) M-336.

Article 3912k, T.C.S., describes compensation, expenses and allowances for county officials, but specifically exempts persons employed as probation officers.

Salaries, Etc., to be Set by Commissioners Court

Section 1. Except as otherwise provided by this Act and subject to the limitations of this Act, the commissioners court of each county shall fix the amount of compensation, office expense, travel expense, and all other allowances for county and precinct officials and employees who are paid wholly from county funds, but in no event shall such salaries be set lower than they exist at the effective date of this Act....

Exceptions

Section 7. Nothing in this Act applies to compensation, expenses, or allowances of ...persons employed under Section 10, Article 42.12, Code of Criminal Procedure, 1965, as amended....

- [158] Fees permitted to be collected pursuant to section 6a of this article, may be distributed for the following purposes; intra alia: salaries of probation officers, secretaries, and other office personnel, probation office expenses; auto travel allowances for probation officers and bona fide educational training expenses for probation officers (including registration fees, travel, and subsistence expenses while

attending seminars or taking academic training at colleges or universities or other appropriate institutions which sponsor courses of study or training relevant to the education and training of probation officers). Op. Atty. Gen. (1971) No. M-784.

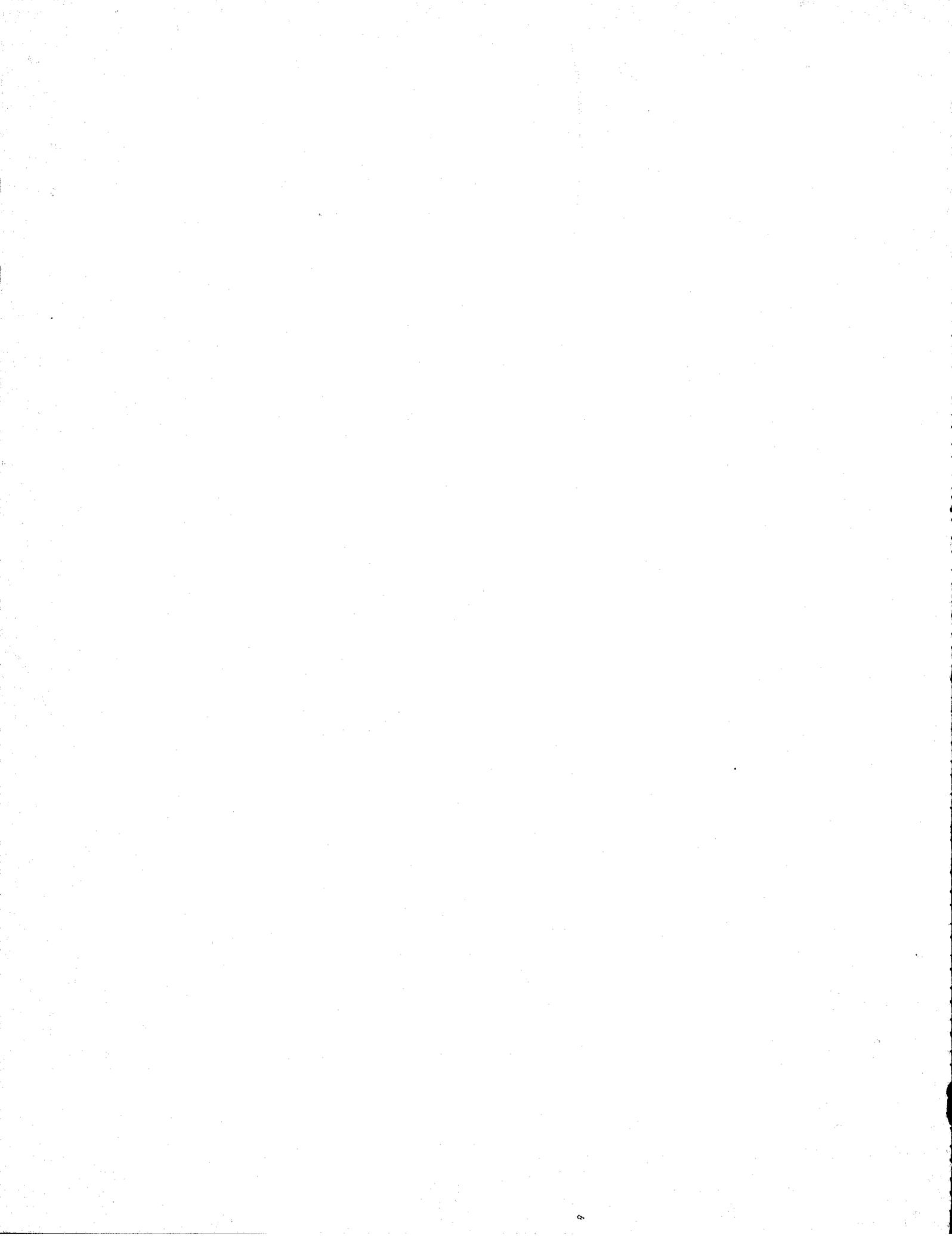
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Sec. 11. For the purpose of determining when fees are to be paid to any officer or officers, the placing of the defendant on probation shall be considered a final disposition of the case, without the necessity of waiting for the termination of the period of probation or suspension of sentence.

Sec. 11a. The provisions of Sections 6a, 10, and 11 of this Article also apply to Article 42.13.

[159] Fees collected under Article 42.13 and this article should be used primarily for adult probation but surplus funds can be used for juvenile probation in the discretion of the district judge or judges charged with the responsibility of administering adult probation laws. Op. Atty. Gen. (1973) No. H-89.

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ART. 42.13 MISDEMEANOR PROBATION LAW

Section 1. All probation in misdemeanor cases shall be granted and administered under this article.

Prior to August 30, 1965, probation was not allowable in misdemeanor cases in Texas. Art. 784a, CCP, 59th Leg. 1965 eff. August 30, 1965.

- [1] The Adult Probation and Parole Law is inapplicable in misdemeanor cases, Ex parte Griffin (1963) 258 S.W. 2d 76.
- [2] Art. 42.12 is not applicable to misdemeanor cases. Op. Atty. Gen. (1971), No. M-985.

* * * * *

Definitions

Sec. 2. In this Article, unless the context requires a different definition,

(1) "court" means a county court, or a county court at law or county criminal court or any court with original criminal jurisdiction, and includes the judge of any of these courts;

(2) "probation" means the release by a court under terms and for a period specified by the court of a defendant who has been found guilty of a misdemeanor;

When misdemeanor probation is granted the finding of guilty does not become final and no sentence is rendered thereon. Hon. John F. Onion, Jr. (special commentary to Art. 42.13).

* * * * *

(3) "probationer" means a defendant who is on probation.

Probation authorized in misdemeanor cases

Sec. 3. (a) A defendant who has been found guilty of a misdemeanor wherein the maximum permissible punishment is by a fine in excess of \$200.00 or by both such fine and imprisonment may be granted probation if:

(1) he applies by written motion under oath to the court for probation before trial;

(2) he has not been granted probation nor been under probation under this Act or any other Act in the preceding 5 years; provided that the court may grant probation regardless of the prior probation of the defendant, except for a like offense within the last 5 years;

(3) he has paid all cost of his trial and so much of any fine imposed as the court directs; and

(4) the court believes that the ends of justice and the best interest of society and of the defendant will be served by granting him probation.

(b) If a defendant satisfies all the requirements of Section 3 (a) (1), (2), (3) and (4) of this Article, and the jury hearing his case recommends probation in its verdict, the court must grant the defendant probation. The court may grant the defendant probation regardless of the

recommendation of the jury or the prior conviction of the defendant, except for a like offense within the last five years. The court may, however, extend the term of the probationary period to any length of time not exceeding the maximum time of confinement allowed by law. In the event probation is revoked in accordance with Section 6, the judgment of the court shall not prescribe any penalty in excess of that imposed by the jury.

- [3] Both Sec. 2(a) (2) and 3(b) are applicable whether trial is by jury or the court. If accused has prior conviction for like offense within preceding 5 years, he is ineligible for probation. Zubia v. State (1976) 543 S.W. 2d 389.

The court may extend the probationary period to any length of time not to exceed the maximum allowed by law whether finding of guilt is by jury or court. Art. 42.12 provides that only when the court, and not the jury, finds the defendant guilty, may the court lengthen or shorten the period of probation from that of the confinement.

* * * * *

(c) A defendant's application for probation must be made under oath and must also contain statements (1) either that he has never before been convicted in this or another jurisdiction of a felony or of a misdemeanor for which the maximum permissible punishment is by confinement in jail or by a fine in excess of \$200 or by both such

fine and imprisonment, or, if he has been so convicted, setting forth such fact and specifying the time and place of such conviction, the nature of the offense for which he was convicted, and the final punishment assessed therein; and (2) that he has not been granted probation nor been under probation under this Article or any other Article in the preceding five years, or if he has been granted probation or been under probation in the preceding five years, setting forth such fact and specifying the time and place of such probation, and the nature of the offense for which he was placed on probation. The application may contain what other information the courts directs.

(d) When a defendant has applied for probation, the court during the trial of his case must receive competent evidence concerning the defendant's entitlement to probation.

[4] An investigation of the type authorized by section 4 of Article 42.12 may be ordered by the court in a misdemeanor case. Op. Atty. Gen. (1971) No. M-985.

* * * * *

Effect of probation

Sec. 4. (a) When a defendant is granted probation under the terms of this Act, the finding of guilt does not become final, nor may the court

render judgment thereon, except as provided in Section 6 of this Article.

- [5] Where misdemeanor probation is granted, court, at such time, renders neither judgment nor sentence. Coby v. State (1975) 518 S.W. 2d 829.
- [6] Article 42.04 requiring a defendant to be present in court at sentencing where maximum possible punishment could be jail time applies to the misdemeanor probation law and when a defendant is not present at the time punishment was assessed and probation granted, the sentence would be vacated and the cause remanded for proper sentencing. Menis v. State (1973) 493 S.W. 2d 799, supplemented 503 S.W. 2d 266; Warren v. State (1976) 532 S.W. 2d 588.

* * * * *

(b) The court shall record the fact and date that probation was granted on the docket sheet or in the minutes of the court. The court shall also note the period and terms of the probation, and the details of the judgment. The court's records may not reflect a final conviction, however, unless probation is later revoked in accordance with Section 6 of this Article.

- [7] Better practice, in misdemeanor case, is to enter written order the same day probation is granted whether by jury or a court. McIntosh v. State (1976) 534 S.W. 2d 143. It is better practice to enter a formal order granting probation in a misdemeanor case. Id. McIntosh.

* * * * *

Terms and supervision of probation

Sec. 5. (a) The period and terms of probation shall be determined by the court granting it. Except as provided in Subsection (d) of this section, a probationer is under the supervision of the court granting him probation.

In misdemeanor cases, the court is not restricted to the enumerated conditions when probation is recommended by a jury as in felony cases. By this act, enumerated conditions must all be included but are not limited to only those enumerated. Whereas, Article 42.12 does not make all enumerated conditions a must.

* * * * *

(b) The period and terms of probation shall be designed to prevent recidivism and promote rehabilitation of the probationer. The terms must include, but not limited to, the requirement that a probationer:

- [8] When jury recommends probation of both jail time and fine, court must follow verdict rather than probate only jail term and order payment of the fine. Johnson v. State (1971) 473 S.W. 2d 939. Faugh v. State (1972) 481 S.W. 2d 112.

* * * * *

- (1) Commit no offense against the laws of this or any other state or the United States;
- (2) avoid injurious or vicious habits;
- (3) avoid persons or places of disreputable or harmful character;
- (4) report to the probation officer as directed;

(5) permit the probation officer to visit him at his home or elsewhere;

(6) work faithfully at suitable employment as far as possible;

(7) remain within a specified place;

(8) pay his fine, if the court so orders and, if one be assessed, in one or several sums, and make restitution or reparation in any sum that the court shall determine not to exceed One Thousand Dollars (\$1,000);

Court cost is absent from this condition. However, court costs under a misdemeanor probation are deemed to have been paid with the application for probation as an eligibility consideration. (See Sec. 3(2), (3) above.)

- [9] Sec. 11a of Article 42.12 states that provisions of sections 6a, 10, and 11 of that Article also apply to misdemeanor Probation Law (Article 42.13). Hence according to section 6a, the court or jury granting probation for a misdemeanor may fix a supervisory fee not exceeding \$10 per month. White v. State (1974) 511 S.W. 3d 528.

* * * * *

(9) support his dependents; and

(10) submit a copy of his fingerprints to the sheriff's office of the county in which he was tried.

- [10] A probationer may satisfy this condition by either submitting a sufficiently authenticated and clear copy of his fingerprints or making himself available to the sheriff's office for fingerprinting. The sheriff's office has the duty to take the fingerprints. Op. Atty. Gen. (1974) No. H-463.

Enforcement of these probation conditions require the same considerations established by case law and opinions for the comparable conditions set forth in Article 42.12 (above).

* * * * *

The clerk shall send such fingerprints to the Texas Department of Public Safety, which shall return a certificate to the court in which the defendant was tried, which certificate shall contain any criminal record of the defendant or record with the Department, or if no record exists, then a certificate from the Texas Department of Public Safety showing the absence of any previous criminal record. The Texas Department of Public Safety shall, in addition to its present responsibilities, keep a record of all misdemeanor arrests within the purview of this section and the deposition of such cases.

(c) The clerk of a court granting probation shall promptly furnish the probationer with a written statement of the period and terms of his probation. If the period or terms are later modified, the clerk of the modifying court shall promptly furnish the probationer with a written statement of the modifications. The clerk in either case shall take a receipt from the probationer for delivery of the statement.

[11] Where written statement of period and terms of probation and requirement that a receipt be taken from probationer for delivery for same had not been complied with was not brought to attention of trial judge in revocation hearing, nothing as to that issue was preserved for review. McClure v. State (1973) 496 S.W. 2d 588.

(d) After probation has been granted, jurisdiction of the probationer's case may be transferred to another court which can more conveniently supervise the probation. If the other court accepts the transfer, the transferring court shall forward to it all pertinent records in the case. The court accepting the transfer is vested with jurisdiction of the case and may exercise any power conferred by this Act upon the court initially granting probation.

Revocation of probation

Sec. 6. (a) If a probationer violates any term of his probation, the court may cause his arrest by warrant as in other cases. The probationer upon arrest shall be brought promptly before the court causing his arrest and the court, upon motion of the state and after a hearing without a jury, may continue, modify, or revoke the probation as the evidence warrants.

[12] In misdemeanor cases, a probationer is entitled to reasonable bail pending revocation proceedings. Ex parte Smith (1973) 493 S.W. 2d 958.

* * * * *

(b) On the date the probation is revoked, the finding of guilty becomes final and the court shall render judgment thereon against the defendant. The judgment shall be enforced as in other cases

and the time served on probation may not be credited or otherwise considered for any purpose.

- [13] On revocation of misdemeanor probation both judgment and sentence are entered. Lee v. State (1974) 516 S.W. 2d 151.
- [14] Trial court may cumulate misdemeanor conviction after revocation with final conviction of felony committed during period of probation when misdemeanor revocation was based on violation of terms of probation by committing subsequent offense during the period of probation. McClure v. State (1973) 496 S.W. wd 588.

* * * * *

Discharge from probation

Sec. 7. (a) When the period and terms of a probation have been satisfactorily completed, the court shall, upon its own motion, discharge him from probation and enter an order in the minutes of the court setting aside the finding of guilty and dismissing the accusation or complaint and the information or indictment against the probationer.

(b) After the case against the probationer is dismissed by the court, his finding of guilty may not be considered for any purpose except to determine his entitlement to a future probation under this Act, or any other probation Act.

- [15] The terms "convicted" as used in the Texas Liquor Control Act do not include a conviction where the sentence is probated under the terms of Article 42.13 during the probationary period or after dismissal. Op. Atty. Gen. (1966) No. C-787.

* * * * *

Appellate rights

Sec. 8. (a) A probationer, at the time he is granted probation, may appeal his conviction as in other cases. He may also appeal the revocation of his probation, but the revocation may not be set aside on appeal without a clear showing of abuse of discretion by the revoking court.

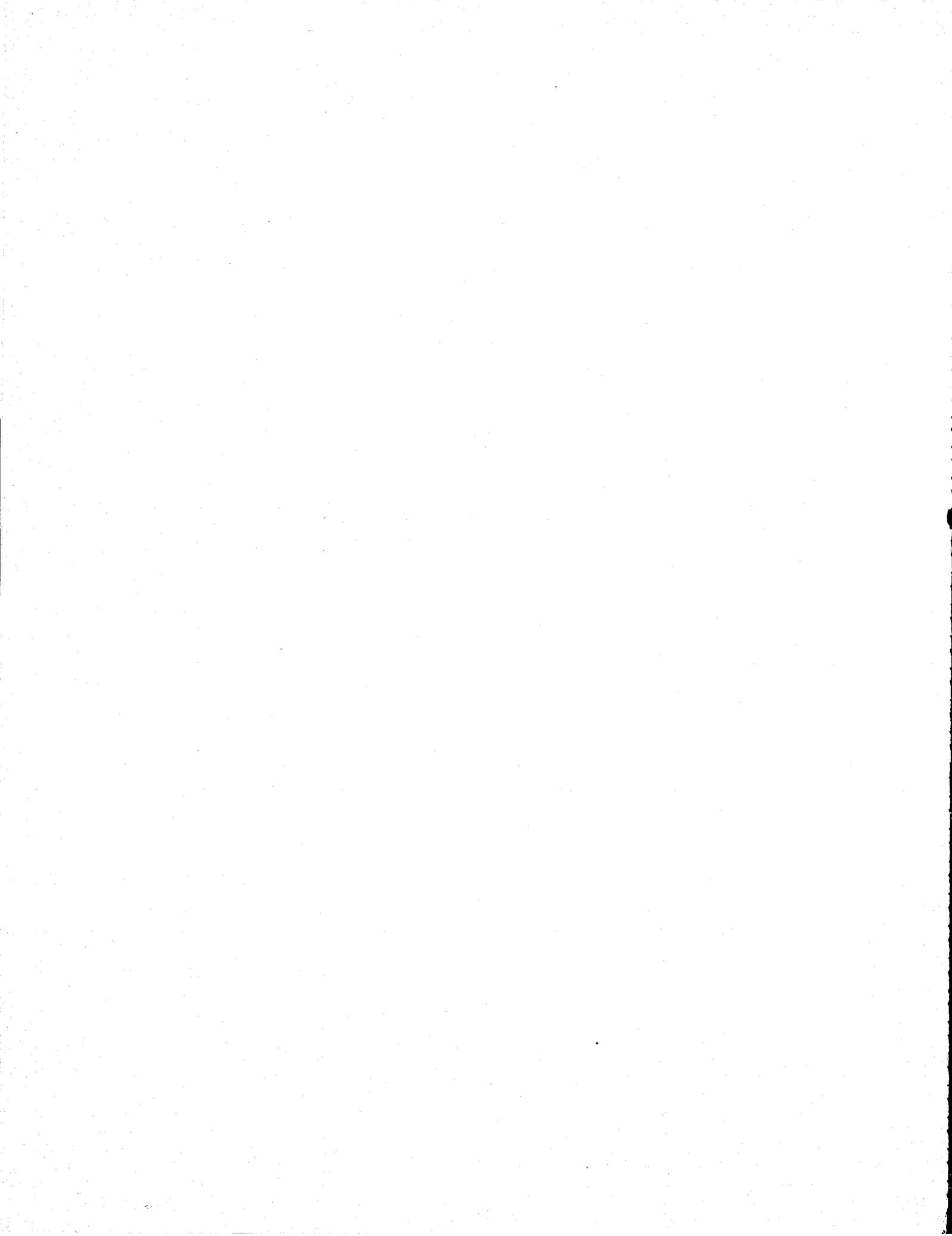
- [16] When misdemeanor conviction is appealed, time of probation does not begin to run until judgment of reviewing court is final and mandate is issued by clerk of reviewing court. Smith v. State (1972) 478 S.W. 2d 518.

* * * * *

(b) The refusal of a court to grant probation is not appealable unless the jury hearing the case has recommended probation in its verdict and the defendant has satisfied the requirements of Section 3(a) (1), (2), (3), and (4) of this Article.

- [17] It is clear in trial before the court trial judge has absolute and unreviewable discretion to refuse to grant probation. Zubia v. State (1976) 543 S.W. 2d 389.

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ARTICLE 4476-15 Sec. 4.12

Sec. 4.12. (a) If any person who has not previously been convicted of an offense under this Act, or subsequent to the effective date of this Act, under any statute of the United States or of any state relating to a substance that is defined by this Act as a controlled substance, is charged with a violation of this subchapter or is found guilty of a violation of this subchapter after trial or on a plea of guilty, the court may, without entering a judgment of guilt, and with the consent of the defendant, defer further proceedings and place him on probation on such reasonable conditions as it may require and for such period as the court may prescribe, except that the probationary period may not exceed two years.

(b) Upon violation of a condition of the probation, the court may enter an adjudication of guilt, pronounce sentence, and punish him accordingly. The court may, in its discretion, dismiss the proceedings against the defendant and discharge him from probation before the expiration of the maximum period prescribed for his probationary period. If during the period of his probation the defendant does not violate any of the conditions of the probation, then upon expiration of the

probationary period the court shall discharge him and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without an adjudication of guilt, but a nonpublic record of the proceedings shall be retained by the director solely for use by the courts in determining whether or not, in subsequent proceedings, the person qualifies for conditional discharge under this section.

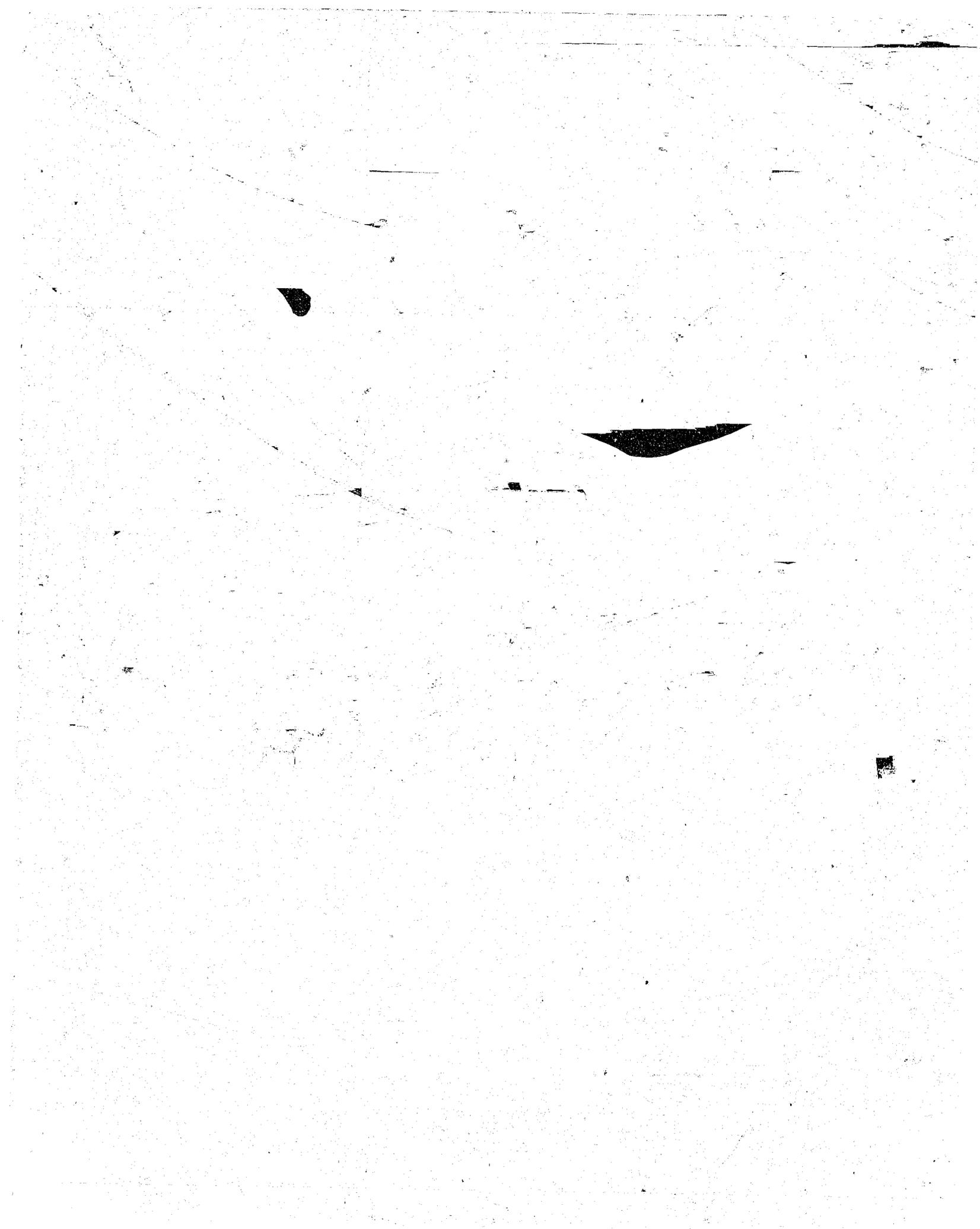
(c) A discharge or dismissal under this section shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law for conviction of a crime, including any provision for enhancement of punishment for repeat or habitual offenders. There may be only one discharge and dismissal under this section with respect to any person.

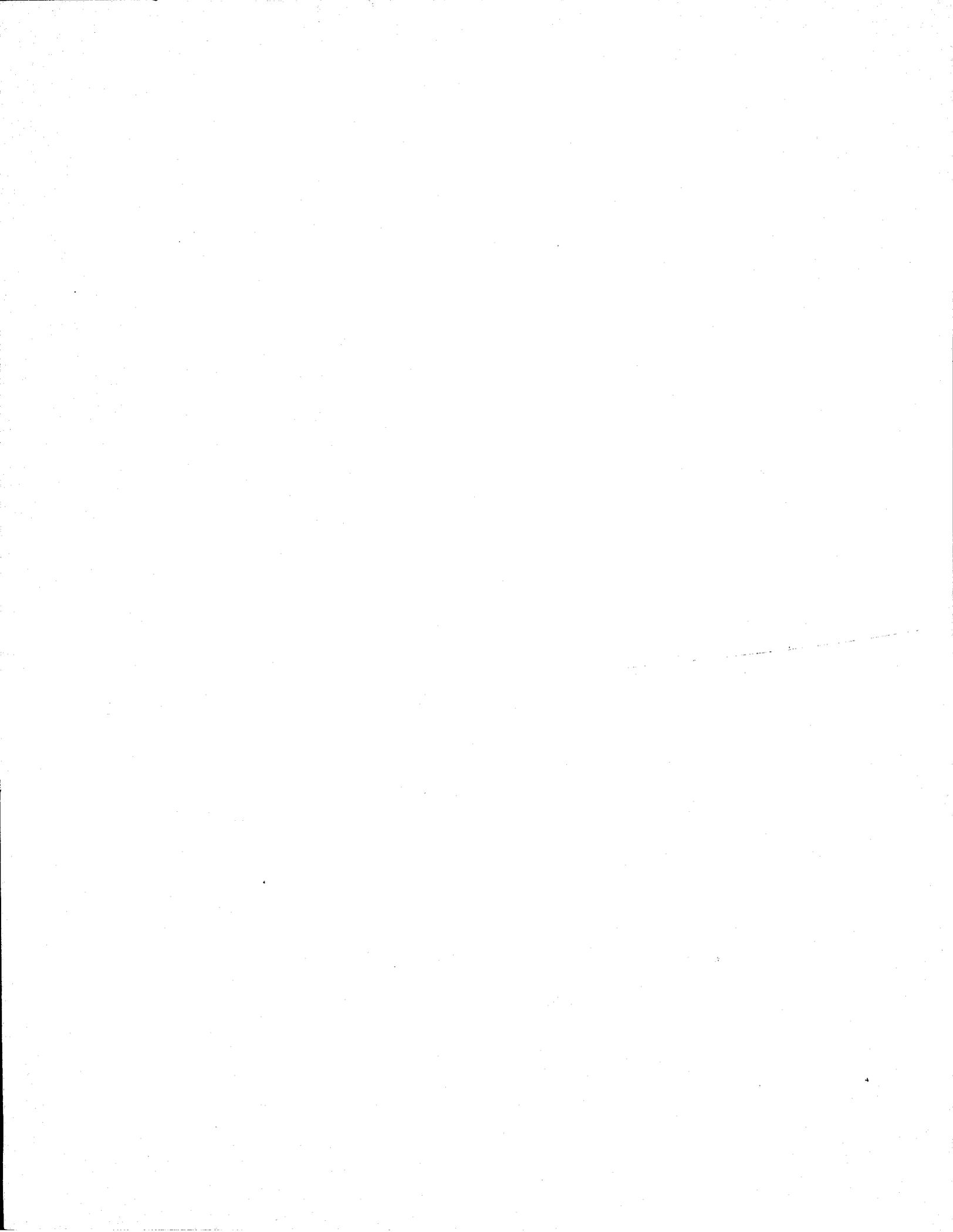
(d) This section shall not be construed to provide an exclusive procedure. Any other procedure provided by law relating to suspension of trial or probation may be followed, in the discretion of the trial court.

The Controlled Substances Act, Sec. 4.12, of 1973 amended Article 4476-15 Texas Civil Statutes Code, and is applicable to both felony and misdemeanor offenses under this Act. No case appeals testing this disposition provision are found.

Under Art. 42.12 and Art. 42.13, a probated sentence is not a final conviction which would serve to enhance the punishment for a second conviction. Therefore, a person who received a probated sentence under Vernon's Ann. Civ. St. Art. 4476-15 could receive a second probation before the expiration of the period of probation for the prior sentence, before he had concluded his period of probation by lapse of time or had the period altered by order of the court.
Op. Atty. Gen. (1973) No. H-48.

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Introduction

Much information has been gathered by the project and will be published in this plan. Before presenting our findings, however, a word is in order about the need for further research, refined by standardized collection procedures exercised over time. We find a serious need for a well-conceived statewide information system capable of gathering and compiling data on a regular schedule. The Texas Judicial Council (T.J.C.), charged by the State with gathering information about criminal court-related activities since 1973, presently collects data on probation dispositions and revocations from district courts only. Data describing case load activities, the use of misdemeanor probation, pretrial release programs, diversion or presentence reports are not at present the responsibility of any party. Yet most professionals recognize the need to maintain descriptive data, and would willingly cooperate with the necessary record keeping. This report will serve as a beginning, will indicate specific needs for, and perhaps will stimulate continuing, long-range investigation and research that would ultimately improve probation services for the state.

Our survey instruments have established a picture of both the formal, or professional, service systems functioning around the state (as Article 42.12 dictates they should), and the informal procedures which defy or frustrate

classification and enumeration. From the data we hope to answer many pressing questions about probation and community-based corrections in Texas today.

Probation has already been defined by brief descriptions of its practical and legal evolution. In this section "probation" will primarily indicate a sentence and disposition; later it will describe a process and a nonstandard set of services for offenders.

A. PROBATION SYSTEMS

One hundred thirty-three probation departments function in the state. They cover 241 counties, all but 13. Information in this survey report covers 125 of the 133 departments (supervising probationers in 235 counties). Partial data were received from the remaining eight departments too late to be included in data analysis. These function in the following counties:

1. Crane
2. Erath & Hood
3. Montague
4. Somerville & Johnson
5. Stephens
6. Young
7. Brazoria (for misdemeanor probation only)
8. Van Zandt(" " " ")

Most of the state's probation systems are responsible for both felons and misdemeanants. In nine counties, however, the county judge directs a special probation officer to administer misdemeanor probation alone. This probation

officer functions with some degree of independence from the felony department having jurisdiction over his county, even where he has no formal separate budget. Separate special misdemeanor probation departments exist in the counties that follow:

1. Brazoria
2. Crosby
3. Deaf Smith
4. Floyd
5. Hale
6. Kaufman
7. Liberty
8. Swisher
9. Van Zandt

In still other counties where a felony probation department operates, the county judge may choose to supervise probationers himself, or else does not as a rule require misdemeanants placed on probation to report. Such is the case in the following counties:

1. Ellis
2. Lamar
3. Hansford
4. Haskell
5. Matagorda
6. Rockwall
7. Schleicher
8. Walker

It was mentioned already that 13 counties are not covered by probation departments of any sort. In each of these counties different arrangements are made for the sheriff, judge or clerk to look after probationers. Sheriffs handle their counties' felony and misdemeanor cases in:

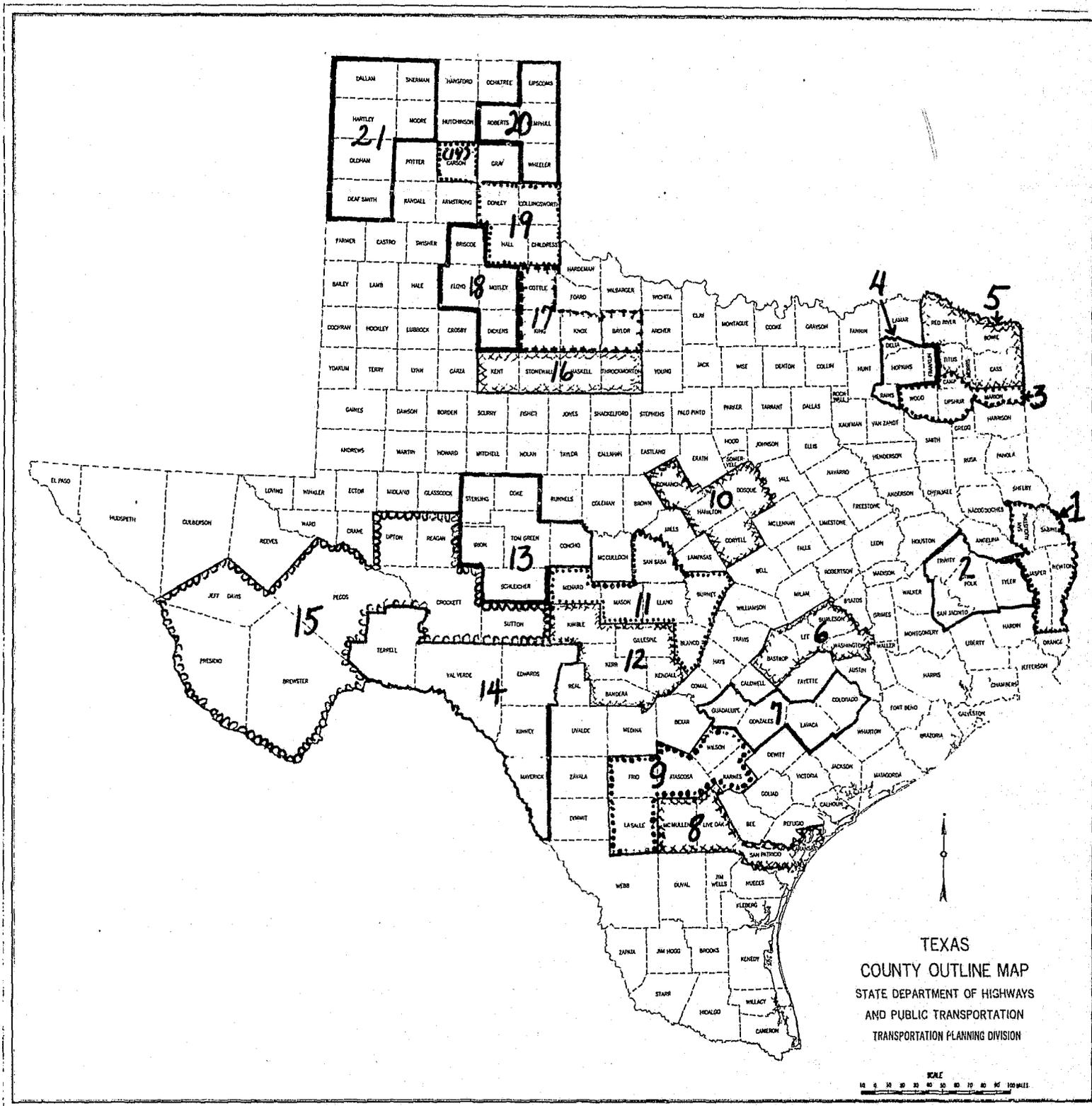
1. Bailey
2. Clay
3. Kenedy
4. Lamb
5. Milam
6. Real
7. Shackelford
8. Uvalde

Additionally, the sheriff handles felony cases, leaving the county judge to handle misdemeanor cases in (9) Archer and (10) Parmer counties. A clerk covers both in (11) Eastland, and covers felony cases in (12) Medina County, or did at the time the survey was conducted. And no one supervises any probationers in (13) Zavala County, as best could be discovered.

As may be guessed from the variety of arrangements represented above, administrative relationships between district and county judges and county governments around the state are varied and complex. With the exception of county-specific misdemeanor departments, probation departments are organized around state judicial districts. These districts often combine several small counties, or may divide a single populous county. Hence the jurisdiction of 80 departments cover a single county, and may go by the name of that county. Other departments are multi-county, and even multi-district. Eleven departments cover two counties, 13 cover three counties, and 21 cover four or more counties.

Some of these departments cover huge geographic areas. The largest territory covered by a single department comprises the 83rd, 112th, and 216th judicial districts in West Texas, spanning from Sutton to Jeff Davis counties. Another large area is covered by the West Texas Regional Probation Department (El Paso, Hudspeth, and Culberson counties). The 21 departments which operate in four or more counties are mapped out and listed on the succeeding pages.

Probation Departments Covering 4 or More Counties



LIST 1

Probation Departments Covering 4 or More Counties
(East to West)

1. 1st Judicial District Probation Department
Jasper, Newton, San Augustine, Sabine
2. 9th & 88th Judicial Districts
Polk, San Jacinto, Trinity, Tyler
3. 114th, 115th & 76th Judicial Districts
C-M-U-W County Probation System
Camp, Marion, Upshur, Wood
4. 8th Judicial District Probation Department
Delta, Franklin, Hopkins, Rains
5. 76th, 5th, 202nd & 102nd Judicial Districts
Bowie, Cass, Morris, Red River, Titus
6. 21st Judicial District
Bastrop, Burleson, Lee, Washington
7. 25th & Second 25th Judicial Districts
Colorado, Gonzales, Guadalupe, Lavaca
8. 36th & 156th Judicial Districts
Aransas, Live Oak, McMullen, San Patricio
9. 81st Judicial District
Atascosa, Frio, Karnes, LaSalle, Wilson
10. 52nd Judicial District
Bosque, Comanche, Coryell, Hamilton
11. 33rd Judicial District
Blanco, Burnet, Llano, Mason, Menard, San Saba
12. 198th & 216th Judicial Districts
Bandera, Gillespie, Kendall, Kerr, Kimble
13. 51st, 119th & 198th Judicial Districts
Coke, Concho, Irion, Schleicher, Sterling, Tom Green
14. 63rd Judicial District
Edwards, Kinney, Maverick, Terrell, Val Verde
15. 83rd, 112th & 216th Judicial Districts
Brewster, Crockett, Jeff Davis, Pecos, Presidio
Reagan, Sutton, Upton

Probation Departments Covering 4 or More Counties, cont'd

16. 39th Judicial District
Haskell, Kent, Stonewall, Throckmorton
17. 50th Judicial District
Baylor, Cottle, King, Knox
18. 110th Judicial District
Briscoe, Dickens, Floyd, Motley
19. 100th Judicial District
Carson, Childress, Collingsworth, Donley, Hall
20. 31st Judicial District
Hemphill, Lipscomb, Roberts, Wheeler
21. 69th Judicial District
Dallam, Deaf Smith, Hartley, Moore, Oldham, Sherman

1. Sentencing: The Use of Probation

The project attempted to gauge the use of probation statewide in several ways. First, the survey instrument for probation officers, Q1, requested a count of all probation clients as of a fixed date--May 1, 1976. Probation departments were requested to sort out their case loads into (1) felony cases received from district courts, (2) misdemeanor cases received from district courts, and (3) misdemeanor cases received from county courts. (See Q1, #34 and #36.)

Some departments provided estimates rather than a precise count, so the tally should be understood as approximate. Several departments seem to arrange records so that figures may not be easily sorted out according to the referring court. Wherever figures supplied seemed unusual or out of line, a letter was sent requesting verification of case load figures. Hence the tally is more than usually reliable.

There were a total of 90,400 persons under the authority of 125 probation departments throughout the state at one time in 1976. Of these, 42,600 appear to be misdemeanants, 2,800 tried in district courts and 39,800 tried in county courts; the other 47,800 appear to be felons. The statewide proportions of probationers who are misdemeanants and who are felons are 47% and 53%, respectively. A small number of these individuals may be on probation simultaneously in more than one county. This would affect our count by only 200-300 at the most. Note that 90,400 represents only those probationers

actively supervised. We know, for instance, that approximately 8,000 misdemeanants placed on probation in Dallas County receive no supervision whatsoever. In the 13 counties where a sheriff, county judge, or clerk adds probation to their other duties, an additional 320 felons and 210 misdemeanants were found to be supervised. Thus there may have been 99,000 persons, or more, actually under a probated sentence in the state at any one point in 1976.

These tallies represent close to a 32% growth in probation populations since 1971, when C.J.D. establish a statewide case load of 68,700 (33,700 probated for felony offenses and 35,000 probated for misdemeanor offenses).

The survey did not try to determine how many persons were sentenced and placed on probation during 1976. However, the T.J.C. gathers data on yearly felony convictions and probations granted. They have determined that district courts, handed down 42,524 felony convictions, and granted 22,754 probations.¹ A sentence was thus probated around 54% of the time. T.J.C. does not report findings on misdemeanor probations, and it cannot be determined how many sentences for these lesser offenses are probated. Intelligent estimates range from 45% to 65%.

The past five years have seen a distinct growth in the frequency of convictions given a probated sentence. According to the 1971 C.J.D. survey, there were 33,200 felony convictions and 74,230 misdemeanor convictions that year. Of total felony convictions, 51% earned a probated sentence; of total misdemeanor convictions the frequency was 45%.

Judicial Council statistics gave a comparable, if more conservative picture of felony probation, recording 15,785 probations granted during 1971, approximately 47% of the 33,466 felony convictions. Judicial Council reports, summarized in the chart below, document activity since 1971.²

TABLE 3
Yearly Rate of Felony Sentences Probated 1971-1976

<u>Year</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>
Felony Probations granted	15,785	16,958	15,812	20,146	23,733	22,754
Total District Court Criminal Convictions	33,466	36,244	36,698	37,693	43,762	42,524
% convictions with probated sentence	47%	47%	43%	53%	54%	54%

These findings make for interesting comparison with the corresponding rates of incarceration, that is, of sentences not probated but served with the Texas Department of Corrections and/or local jails. The Judicial Council has collected data for state and local commitments by district courts since only 1974. Their figures show the following.³

TABLE 4
Yearly Rate of Felony Sentences Probated 1974-1976

<u>Year</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>
Number sentences executed (TDC and local jails)	18,102	17,144	18,010
Number felony convictions, district courts	37,693	43,762	42,524
Frequency of incarceration	48%	39%	42%

On the national level, comparable data about the use of the probation disposition is difficult to obtain, and once obtained, difficult to tie down. In 1965 the National Council on Crime and Delinquency conducted a survey of corrections in the United States for the President's Commission on Law Enforcement, constructing thereby the first national picture of offenders under correctional authority. That year 144,200 felony defendants were placed on probation by courts nationwide, with an average daily adult probation population estimated as 230,500.⁴

There have been no similar nationwide counts since that time. A 1976 report on probation to Congress from the U.S. Comptroller General states that an attempt was made to generate comparable statistics, but it failed since many states did not respond, and the format for keeping records varied among those states who did.⁵ The GAO sampled four counties selected as representative of different probation systems and found that between 71% and 85% of felons in each of the four counties received probation sentences during the period from 1972-74.⁶ By such standards Texas's use of probation is very conservative indeed: Judicial Council statistics indicate between 47% and 53% of all convictions were probated over the same period. Even by 1976 this frequency had grown to only 54%.

Information regarding the use of the probated sentence in Texas was gathered by yet another means: the construction of a profile of felons being placed on probation during a designated time span. The assistance of 25 departments was requested, and 21 participated; they were chosen on the basis of geographical and demographic distribution and the likelihood that they could provide the information desired.* The jurisdictions of these 21 departments cover 44 counties (a map delineating them is found on page 137), and their combined felony case loads comprise three-fifths of the felony caseloads carried around the state.

A copy of the survey instrument devised with the help of the Governor's Office, Criminal Justice Division, is to be found in Appendix L. The descriptive information solicited was extensive and entailed lengthy searching through case records. Most departments were asked to report on all felons receiving a probated sentence between January 1, 1976 and July 1, 1976, a period of six months, although Hidalgo responded with three months. Large metropolitan areas were asked for only three of those six, and Harris County reported one month's activity, that of May, 1976.

Information on 2,309 probationers was analyzed. Hence our sample represents approximately ten percent (10%) of the probations granted in Texas by district courts over the entire year (22,752 according to T.J.C. data for 1976).

*Five of the large metropolitan areas are included and six departments cover areas with a population of less than 50,000.

The felony offender survey form solicited three kinds of information: that which describes sentencing and the court process (length of sentence, presentence investigations, pretrial detention or bail bond status, counsel, etc.); general background information (prior record, education, employment, family, and drug or alcohol use); and, for youthful offenders age 23 and under, a more detailed picture of family background. Omissions and gaps in the data returned by these 21 departments say much about the extent and quality of records developed on offenders. The data describing family history of youthful offenders (page 3 of the survey form) was not sufficiently complete to be considered valid. So, too, were records on bail bond status, detention time, and even prior record. About forty percent (40%) of the time the defendant's use of drugs or alcohol at the time of the offense was noted on the form to be "unknown."

That information consistently kept by the departments surveyed is compiled and reproduced in Appendix L, first on a department by department basis, and secondly on the basis of eleven chosen categories of offenses. The profile of all information tallied appears on page 136, following. Because the information supplied us was not always complete, percentages represent the relative frequencies among those cases for which a particular variable is known and supplied.

TABLE 5

STATEWIDE

PROFILE OF FELONY PROBATIONERS
-SELECTED DEPARTMENTS-

<u>41%</u>	District Court convictions receiving probated sentence*
<u>39%</u>	District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

48 Median length of probated sentence (months)

Percent Number

<u>56%</u>	<u>1,302</u>	Offenses vs. property
<u>20%</u>	<u>457</u>	Offenses vs. public order and decency
<u>12%</u>	<u>271</u>	Offenses vs. a person
<u>--</u>	<u>3</u>	Offenses vs. family
<u>12%</u>	<u>276</u>	Other offenses

<u>97%</u>	<u>2,189</u>	Sentenced by court
<u>3%</u>	<u>52</u>	Sentenced by jury

<u>70%</u>	<u>1,515</u>	Represented by retained counsel
<u>30%</u>	<u>661</u>	Represented by appointed counsel

62% 1,366 Presentence investigation report presented

89% 1,596 Plea negotiated

31% 606 Detained in jail at time of plea

(Status at time of the offense)

<u>22</u>	Median age (years)	<u>60%</u>	Employed
<u>58%</u>	less than 23 years of age	<u>40%</u>	Unemployed

<u>11</u>	Median education (years)	<u>25%</u>	Under influence of drugs
<u>55%</u>	less than 12 years education	<u>28%</u>	Under influence of alcohol

<u>33%</u>	Married
<u>9%</u>	Divorced or separated
<u>48%</u>	Single
<u>10%</u>	Other

41% With dependents

	White	Mex-Am.	Black	Other
Male	46% (1,024)	18% (412)	23% (515)	0% (7)
Female	7% (160)	2% (39)	4% (89)	0% (1)

LIST 2

Jurisdiction of Departments Participating in
Felony Offender Profile Survey

1. Bowie, Cass, Morris, Red River, Titus
2. 1st Judicial District Probation Department
3. Smith
4. Harris
5. Anderson, Henderson, Houston
6. Grayson
7. Dallas
8. McLennan
9. 21st Judicial District Probation Office
10. Travis
11. Bexar
12. Cameron
13. Hidalgo
14. 32nd Judicial District Probation Department
15. Tom Green, Coke, Concho, Irion, Schleicher, Sterling
16. Val Verde, Edwards, Kinney, Maverick, Terrell
17. Potter, Armstrong, Randall
18. Lubbock, Crosby
19. Terry
20. Midland
21. West Texas Regional Adult Probation Department

Types of offenses

Offenses were coded according to National Crime Information Center Uniform Offense classifications. Over one-half the probations granted during the period in question (54%) resulted from property crime convictions (burglary, larceny, vehicle offenses, forgery, fraud, etc.). The second largest category of crimes--for which twenty percent (20%) of the probations were granted--were those "against public order, morals and decency," comprising drug-, alcohol- and sex-related offenses. Only twelve percent (12%) of the probations in our sample were granted for crimes against a person (robbery, assault, sexual assault, or homicide), and a negligible number fell into the category of family offenses. The remainder of probationers, some twelve percent (12%), committed "other offenses," by far the majority of which were DWI and DUID.

This offense profile varies considerably from jurisdiction to jurisdiction. In Bexar, Hidalgo and Smith counties, for instance, over thirty percent (30%) of the probations granted fall into the offense classification "public order, morals and decency," probably due to handling of drug-related cases. In the First Judicial District (Jasper, Newton, Sabine and San Augustine), on the other hand, eighty-four percent (84%) of the persons probated committed property crimes. Such differences as these reflect local crime and arrest patterns, prosecution and sentencing policies, as well as the attitudes of local citizens.

Length of probated sentence

Probation may be granted for any period of time up to ten years. The average term set within the compass of this sample is four years. Again, different sentencing patterns are apparent, the median probation term for defendants ranging from 36 months in Dallas to 63 months in El Paso. (In most jurisdictions the length of probation tends to be in line with the length of sentence assessed.)

Sentencing Process

Our information shows that only three percent of the probationers sampled were sentenced by a jury. In some courts this never seems to be a practice (e.g., the Bexar, Hidalgo, Midland, and the First Judicial District courts), and Grayson County is the only jurisdiction falling in our sample with extensive jury sentencing of probated cases (one-fifth the cases probated there are handed down by a jury).

Statewide the great majority of defendants probated (70%) appear to be represented by privately retained counsel, even in the large metropolitan jurisdictions. Particularly high proportions of probationers are represented by their own counsel in the following areas: Lubbock/Crosby (82%), Smith (83%), Anderson, et. al. (88%), McLennan (89%), Hidalgo (99%), and First Judicial District (100%). These findings seem to pose a marked contrast to the data obtained by the T.J.C. on appointed counsel for all defendants, Lubbock County, for instance, appointed counsel for sixty-seven percent (67%) of all criminal defendants - by our data, only

eighteen percent (18%) of those probated were stated to have had appointed counsel. T.J.C. found McLennan county appointing counsel in forty-four percent (44%) of their trials - our survey found eleven percent (11%) of those probated with appointed counsel. Disparities were also found for Smith, Anderson and Jasper county areas. This issue deserves further study in order to determine the significance of these findings.

Presentence investigations were conducted on fewer than 50% of the probationers sentenced in 10 of the 21 departments. Departments would seem to either regularly provide this service as a matter of policy (for over 80% of the cases they expect to receive), or else to conduct an investigation in only a select number of ambiguous or doubtful cases (less than 20% of the time). Over ninety-five percent (95%) of the cases probated in Dallas, Jasper, McLennan and Midland counties during the period of the sample had the benefit of PSI reports.

Most probation sentences--90% of the sample--follow from negotiated pleas. The only jurisdictions sampled in which plea negotiations to include sentencing recommendations are limited by court practice are in the 76th Judicial District, and in El Paso, Terry and Bexar counties.

Information on pretrial detention was, surprisingly, sketchy. We are unable to say anything about the relationship between pretrial detention and probation sentences, save that it varies from one place to another, and that in

nine jurisdictions at least thirty percent (30%) of the defendants probated were in jail at the time of their plea. The pretrial detention rate for probationers in these counties should not be construed to be equivalent to the pretrial detention rate for all defendants.

Offender characteristics

Probation is predominantly used for the youthful offender: median age of the 2,309 defendants sampled was 22 years, and most offenders clustered in the 20-30 age bracket. More than one-half the individuals probated for burglary were less than 20 years of age; this group was also significantly represented among thefts, delivery/sale of a controlled substance, and burglary of a habitation. Probated sentences for crimes of passion and DWI, on the other hand, were more common for persons of 30 years or more. Sixty-two percent (62%) of the DWI probationers were over 40 years of age, as were thirty-eight percent (38%) of those convicted and probated for homicide/murder.

One-half of the sample was known to have eleven years of schooling or less. Educational deficiencies would seem to be greatest among those convicted of burglary of a habitation and other forms of burglary (75% show less than a high school education). Lack of employment closely parallels this deficiency among burglars, of whom between fifty-four percent (54%) and sixty percent (60%) lacked jobs at the time of their offense. The statewide employment picture established by our sample shows forty percent (40%) of the probationers to have been unemployed when their offense was committed.

One-third of the sample are married; another half have never been so. Forty percent (40%) have dependents. Eighty-seven percent (87%) are male and thirteen percent (13%) female. Ethnic representation is: 52% Anglo, 20% Spanish-surname, and 36% Black. One-fourth of the total group were known to be under the influence of drugs at the time of the offense and slightly more than this were known to be under the influence of alcohol.

2. Probation Services and the Courts

There are 230 district courts in the state as of this writing.* According to our survey of services rendered to district courts by adult probation departments, 206 of them actively exercise criminal jurisdiction and have some degree of probation services available to them. Juvenile jurisdiction is also exercised by at least 107 of these courts. Roughly one-fifth of the work load of district courts is criminal in matter: in 1975, 71,800 of the 338,000 cases filed were criminal cases (TJC Annual Report).

Nine (9) probation departments do not serve a district court at all; that is, they administer misdemeanor probation only. Seventy-five (75) departments seem to serve only one district court with criminal jurisdiction; twenty-one (21) other departments serve two, and eighteen (18) serve between three and six district courts. The Dallas County department serves nine (9), and Harris serves twelve (12).

Texas has 254 constitutional county trial courts and 77 special county courts-at-law, a total of 331. Our survey shows that 226 such county trial courts of limited jurisdiction exercise criminal jurisdiction and have limited or full probation services available to them. Seventeen (17) probation departments noted no county court exercising criminal jurisdiction within their area. One-half the departments (62)

*On February 28, 1977 Governor Briscoe appointed judges to 23 newly created courts.

serve only one county court; 37 departments serve between two and four county courts; 8 departments serve five, Dallas serves six, and Harris serves nine county courts. According to the Texas Judicial Council, in 1975 criminal cases constituted 63% of the 327,669 new cases filed in county courts or appealed from lower courts. One-third of these criminal cases were filed for Driving While Intoxicated; other large categories of offenses were Worthless Checks - 15%, Marijuana offenses - 10%, and an assortment of other misdemeanors for the remaining 44%.

Presentence Investigations

In 99 of the 206 district courts active in hearing criminal cases, detailed presentence investigations (long form) may be performed, and in 91 courts presentence investigations (hereafter referred to as PSI's) are conducted according to a short form. Some courts may use either detailed or summary format as a particular case requires. Other courts have the benefit of neither: 46 departments attached to a district court offer no form of PSI services. Even more county courts are limited in their access to or use of PSI's: 83 departments offer no PSI services to their county courts.

Presentence investigations require lengthy preparation, as well as training and experience on the part of the probation officer performing them. For this reason, six (6) departments assign a total of thirty-three (33) staff exclusively to PSI work. In other departments, of course, all probation officers undertake PSI's in addition to casework

duties. Several of the special PSI units are funded by CJD, which supports the use of such investigations to inform sentencing. Standard "E2f" in CJD's 1976 Criminal Justice Plan affirms that "each sentencing court should have available pertinent information unique to the defendant and to the case before passing sentence."⁷ The plan modestly mandated the establishment of special PSI units in four sentencing courts during 1976, and by the end of 1977 extended its goals to maintenance of PSI units for all sentencing courts in communities with population of 250,000 or more (65 courts in 6 communities). According to the survey only 13 such courts do not yet enjoy this service, although some simply may not make use of it (3 in Tarrant County, 2 in El Paso, and 5 in Dallas).

Of the district judges polled by the Q2 survey instrument (#16), 102 (67%) state they require some form of investigation by the probation department prior to sentencing; 89 (59%) further solicit sentencing recommendations from their probation officers either occasionally or a majority of the time.

County judges were drawn out a bit more on this subject. Asked "to what extent do you use the adult probation department to investigate a defendant's background prior to sentencing," 23% replied "never." Another 23% use investigations for less than 10% of their cases, and only 16% state they use probation investigations more than a quarter of the time (Q3, #12). Where investigations are made prior to sentencing for misdemeanor offenses, they are usually of the shorter, summary type. Indeed, the charting of "services rendered by adult probation department to county courts" shows that only 15 departments

occasionally or regularly complete a "long form" PSI for 24 county level courts; 35 departments prepare a "short form" PSI for 56 courts, and 8 of these departments use both forms.

What impact do PSI's have on a decision to probate a sentence, relative to other factors? District and county judges were asked which of fifteen distinct variables "most often influence (their) decision to grant probation." (Q2, #30 and Q3, #22.) Those indicated most often follow.

TABLE 6

<u>District Judges</u>		<u>County Judges</u>	
Nature of offense	68% (103)	Recommendation of prosecuting attorney	62% (153)
Recommendation of D.A.	66% (101)	Nature of the offense	55% (136)
Defendant's age	55% (83)	Defendant's attitude	44% (108)
Defendant's attitude	51% (78)	Defendant's background	40% (98)
Defendant's background	43% (65)	Recommendation of probation officer	36% (89)
Recommendations of probation officer	41% (63)	Defendant's age	33% (80)
-----		-----	
Presentence investigation report	34% (52)	Presentence investigation report	19% (47)

Seventy-six percent (115) of the district judges require a probation officer to be in the courtroom (most or all of the time) during sentencing of a defendant whose sentence will be probated. The comparable figure for county judges is 28% (71). (See Q2, #18 and Q3, #13.)

Other Services

As may be seen in Appendix A, pages 2 and 3, other services performed for courts by probation departments include money collection, service of warrants, and transportation of prisoners. Tallies of courts requiring, or in any case receiving these services may be found there. Note that there are 25 probation departments who serve warrants, and 33 who transport prisoners under probation-violation custody for district courts, in addition to performing regular case work duties. Most of these departments cover predominantly rural counties where law enforcement capabilities are as limited as are social services, so that these functions must be doubled-up.

3. Manpower: Who administer and staff probation systems?

Our tally of persons employed in 125 probation systems around the state shows there were 895 in 1975. The number of these who are actually classified as probation officers is 318. This does not tell us how many professionals carry case loads, however, since some supervisors, chiefs of probation and their assistant chiefs may do limited case work in addition to their administrative duties: we are unable to establish an exact figure for this. The number of persons filling professional positions is 546 (see staffing chart page 150).

Department sizes range from one part-time worker in Dickens and Palo Pinto Counties to a staff of 88 in Harris County. Staff sizes are sorted out in the chart below.

TABLE 7
Size of Probation Departments by Staff

Number with 2 or fewer staff	=	51
Number with 3 to 6 staff	=	41
Number with 8 to 20 staff	=	26
Number with more than 20 staff	=	<u>7</u>

125 Departments

Eighteen probation departments are large enough to require or designate assistant chiefs, and sixteen are large enough to designate case work supervisors. Other paid staff are primarily clerical (307 are classified as clerks, secretaries and bookkeepers).

Departments were asked to indicate interns and volunteers working as or with staff. As of May 1, 1976, 50 interns were being used by 17 departments; 509 volunteers were said to participate in the operation of 19 departments.

TABLE 8

Probation Department Staff Statewide

1. Please complete the following information regarding your departmental staff.

STAFF POSITION	TOTAL NUMBER	NUMBER MALES			NUMBER FEMALES		
		BLACK	MEX.AMER.	ANGLO	BLACK	MEX.AMER.	ANGLO
Chief	115	--	10	96	--	1	4
Assistant Chief	20	--	4	15	--	--	1
Administrative Assistants	16	--	--	8	1	3	4
Supervisors	77	4	6	45	2	2	14
Probation Officers	318	23	39	164	9	4	76
TOTAL PROFESSIONAL STAFF	546	27	59	328	12	10	99
Paraprofessional Staff	39	4	4	8	6	5	12
Administrative: Secretarial	179	--	1	7	13	48	109
Clerical	46	--	--	--	7	9	30
Bookkeepers	32	--	--	1	1	7	23
Technicians: Lab	3	--	--	2	--	--	1
Computer	1	--	--	1	--	--	--
Interns (as of 5/1/76)	50	4	3	17	1	3	22
Volunteers	509	29	27	211	37	22	181
Others*	49	1	5	15	6	12	7
SALARIED STAFF (TOTALS) (excludes interns & volunteers)	895	32	69	362	45	91	281
ALL STAFF TOTALS	1454	65	99	590	83	116	484

*Several community resource developers, volunteer coordinators, pre-sentence investigators, a training director, alcohol education officer, and pretrial release personnel are cited. Some are paid with temporary funds through such programs as CETA.

N.B.: The ethnic information provided was not always complete, and hence the "Total Number" is sometimes larger than sums derived from racial/sex breakdowns.

Chiefs

One hundred fifteen (115) departments designate a "Chief"; nine departments apparently function without a chief. In at least one judicial district (the 31st), where two independent departments are functioning--one department for Gray County, another serving Wheeler, Hemphill, Lipscomb and Roberts counties--the district judge has designated himself as chief probation officer, thus retaining full administrative authority over both departments' operations. Other one-man departments simply do not designate a chief.

Our "Everyman" of probation chiefs seems to look something like this: 45 years old, white, male, with 3 years of college, 7 years of experience in the profession, and 5 years' tenure as a "chief." (At least two-thirds of those polled feel a college degree should be required to perform in this capacity. Also, three-fourths believe administrative experience should be required of a chief as well, but for the most part do not find such experience more important than actual field experience.)

Department heads were asked to describe their work loads by the average number of hours spent weekly on an assortment of tasks. They state an average work week consists of 60 hours, 19 of these engaged in client supervision/case work. This picture is biased by the number of small, rural-county departments. Ninety-one (91 or 72%) probation chiefs carry a case load; only seventeen (17 or 13%) state they do not.* In fact,

*(Others did not reply Q1, #30)

chiefs carry almost one-fifth the total state case load: 17,100 probationers, comprised of 9,600 felony and 7,500 misdemeanor offenders. The largest case load for a chief was 666. Half those serving district courts have a case load larger than 72 felons; 76 of these chiefs doing direct service also carry a case load from county courts, median load being 75. Using this information, a departmental administrator may be determined to carry between 135 (Rural) and 145 (Urban) cases on his load. (The reader is reminded that Article 42.12 sets the desirable case load at 75, whereas fully half the chiefs of probation around the state carry case loads almost twice this size.) See Q1, #31.

Other duties, and the time allotted to them by chiefs, are listed below:

<u>DUTIES</u>	NUMBER OF HOURS PER WEEK (Mean Average)
1. Administration/court coordination	9
2. Volunteer coordination/development	3
3. Personnel staffing	3
4. Personnel supervision	6
5. Client supervision/case work	19
6. Travel	7
7. Court Services as a probation officer	5
8. Community resource development	3
9. Public relations work	3
10. Other*	3
TOTAL HOURS PER WEEK	<u>61</u>

*Bookkeeping, public speaking, assisting law enforcement agencies, consulting and professional association work.

(Q1, #15)

We wanted to see how this picture differed for chiefs in predominantly rural and predominantly urban areas. We designated as "rural" any department serving counties with population less than 50,000. Departments serving all other counties are classified as "urban."

<u>DUTIES</u>	<u>Rural Depts.</u>	<u>Urban Depts.</u>
1. Administration/court coordination	7 hours	12 hours
2. Volunteer coordination/development	3 "	2 "
3. Personnel staffing	3 "	4 "
4. Personnel supervision	4 "	7 "
5. Client supervision/case work	21 "	14 "
6. Travel	7 "	7 "
7. Court Services as a P.O.	5 "	5 "
8. Community resource development	3 "	3 "
9. Public relations work	3 "	3 "
	<hr/>	<hr/>
TOTAL HOURS	56	57

Professional Staff Profile

The staff survey requested information on ethnic heritage, age, and education of staff (Q1 - #1, 5, 6 & 7). Data supplied were sometimes incomplete, but the overall profile they establish is reliable.

Of the 535 professional staff for whom we have descriptive information, approximately one-quarter are women. Few of these are in management positions. Only five women serve as Chief of Probation (5%); one serves as assistant chief; eight are administrative assistants (50%); eighteen are supervisors (25%); and eighty-nine are probation officers (28%). This information is summarized in the chart below.

TABLE 11

	MALE		FEMALE		TOTAL
Chiefs	106	(95%)	5	(5%)	111
Assistant Chiefs	19	(95%)	1	(50%)	20
Administrative Assistants	8	(50%)	8	(50%)	16
Supervisors	55	(75%)	18	(25%)	73
Probation Officers	226	(72%)	89	(28%)	315
All Professional positions	414	(77%)	121	(23%)	535 (100%)

Our composite of ethnic origins for professional-level staff shows that 7% (39) are Black; 13% (67) are Mexican-American; and 80% (428) are Anglo. By comparison, total state population comprises 13% Blacks (1,400,000 by the 1970 census), 18% Mexican-Americans (2,020,000 in 1970) and 69% Anglos (7,700,000 in 1970). Among probationers sampled, 52% were Anglo, 20% Mexican-American and 36% Black. Despite recruitment efforts by many departments, minority groups as a whole are underrepresented in the profession.

TABLE 12

	Black	Mexican-American	Anglo
Probationers Sampled, 1976	36%	20%	52%
Professional Probation Staff, 1976	7%	13%	80%

	Male			Female		
	Black	M-A	Anglo	Black	M-A	Anglo
Professional Staff	27 (7%)	59 (14%)	328 (79%)	12 (10%)	10 (8%)	99 (82%)

Minimum requirements for probation officers are established by Article 42.12, Section 10, although no measures are described there for their enforcement. These requirements were adopted 1965; a clause allowed P.O.'s then serving

and not meeting these requirements to continue. The minimum qualification requirements laid out in the statute (reprinted below) have the support of 78% of those responsible for seeing they are met (see Q1, #21).

Only those persons who have successfully completed education in an accredited college or university and two years full time paid employment in responsible probation or correctional work with juveniles or adults, social welfare work, teaching or personnel work; or persons who are licensed attorneys with experience in criminal law; or persons who are serving in such capacities at the time of the passage of this Article and who are not otherwise disqualified by Section 31 of this Article, shall be eligible for appointments as probation officers; providing that additional experience in any of the above work categories may be substituted year for year for the required college education, with a maximum substitution of two years....

The judge or judges may, with the approval of the director of parole supervision, designate a parole officer or supervisor employed by the Division of Parole Supervision as a probation officer for the county or district.

-CCP

Section 31 of Article 42.12, referred to in the first paragraph above, reads as follows:

No person who is serving as a sheriff, deputy sheriff, constable, deputy constable, city policeman, Texas Ranger, state highway patrolman, or similar law enforcement officer, or as a prosecuting attorney, shall act as a parole officer or be responsible for the supervision of persons on parole.⁸

-CCP

Our survey uncovered no parole officers serving also as probation officers. We did find that eight departments have case workers who are certified as peace officers.

Nineteen departments still have staff not meeting statutory requirements, "doing the work of a probation officer"; in eight departments the chief falls into this category. Of the 36 such probation officers for which information was given,

29 have been hired within the last five years. (See Q1, #2-4.) This deviation is significant, but still constitutes only about 8% of all full-time probation officers for whom tenure is known. Curiously, most of these P.O.'s (64%) work in predominantly urban areas (population greater than 50,000).

Even though there would be few means for enforcing it under the present system, one-half the probation chiefs polled would like to see qualifications legislated for all levels of probation personnel. More support still was indicated for publication of standard job descriptions for all levels. (See Q1, #27-28.)

Professional probation staff present a relatively conservative profile. Half the state's male staff fall into or above the 31-40 years age span; professional women are on the whole slightly younger, with a median age span of 26-30 years. (Q1, #5.)

Approximately 15% (83) of all professional staff for whom we received information do not possess a college degree. Among those who have graduated, 46% (249) have a bachelor's degree, another 28% (150) have undertaken some graduate work, and Master's degrees have been awarded to 11% (59). (Q1, #6.)

There are 318 full-time P.O.'s working for 124 departments. In addition, between 68 and 77 staff supervise probation officer casework (Q1, #1 and #10.) These supervisors quite often take on additional direct responsibilities for court services, casework, and/or training (Q1, #10).

Where staffs are large enough to permit, some officers specialize in one or more probation functions. We have already noted that 33 P.O.'s in six departments specialize in presentence investigations. Questionnaire 1, question #13, gathered the following about specialties:

How many probation officers in your department are assigned the following specific responsibilities, as opposed to performing general multiple services:

<u>25</u>	(5 departments)	Court services
<u>33</u>	(6 departments)	Presentence services
<u>32</u>	(3 departments)	Reported violation investigative services
<u>47</u>	(5 departments)	Casework supervision
<u>73</u>	(5 departments)	Volunteer supervision
<u>28</u>	(4 departments)	Community resources
<u>5</u>	(3 departments)	Staff development
<u>4</u>	(3 departments)	Other

The bulk of probation officers, however, would seem to perform general multiple services. We asked departments to give us some idea of how an officer spends his time (Q1, #14) and came up with the following picture:

Please estimate the approximate number of hours spent per week by a probation officer in performing each of the following specific tasks:

<u>DUTIES</u>	<u>NUMBER OF HOURS PER WEEK (Mean Average)</u>
Direct case supervision	<u>24</u>
Travel	<u>7</u>
Records keeping (recording)	<u>8</u>
Volunteer supervision/coordination	<u>4</u>
Resource work*	<u>5</u>
Other**	<u>5</u>
TOTAL HOURS PER WEEK	53

*For example, health examinations, employment contacts, indirect counseling contacts (family, etc.) transportation, etc.

**List examples:

Conducting alcohol (DWI) classes, law enforcement training, or presentence investigations; community relations work; employer contacts; and public speaking.

(Q1, #14.)

This picture does not vary significantly between P.O.'s functioning in rural areas or P.O.'s functioning in urban areas. For the curious, differences are recorded below.

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

Tenure

Attention to corrections manpower over the past five years has been well-warranted. The probation profession's ability to build a pool of competent workers is crucial to excellent service. Like any other service, probation is only as good as the staff that administer and enforce it. But does the profession in Texas attract and hold good staff?

We asked two questions about tenure of full-time probation officers, and learned that just over 20% of them have more than five years tenure in their department (only 5% have remained where they are over 10 years); 50% have 2-5 years tenure and 30% have less than two years. This may be attributed in part to the very recent development of probation services around the state. In 1967 Havenstrite found 120 adult probation officers employed by 55 probation departments, and functioning in 98 counties.⁹ In 1973 CJD disseminated

their count of 321 officers functioning in 224 counties; by then CJD was well into so-called "seed" funding. Our 1976 count found 318 officers (and 546 professional-level staff) within 126 departments, functioning in 240 counties. Growth has been fairly steady over these ten years, at least until recently.

This does not completely explain the short tenure of probation staff, however, for we identified a total of 183 full-time probation officers around the state who left their department in a 28 month period: 64 left in 1974, 84 left in 1975, and 35 left during the first four months of 1976 (see Q1, #11-12). When queried about the most frequent reason for loss of employees, probation chiefs stated that staff either sought better paying jobs with more opportunity for advancement (in the federal probation system, for example), or got out because the rewards were not commensurate with the pressures and responsibilities.

Compensation and Advancement

No information was collected regarding present salary levels around the state, with one exception. Probation officers also performing arrest and transport duties reported salaries averaging about \$9,700 per year. Good staff are sometimes lost by local probation departments because of the better drawing power of the federal probation system or of private agencies. The story is typical of corrections in all states.

The survey did test support for standardized minimum salaries for professional personnel. Seventy-five percent of probation officers polled saw this as advantageous (Q1, #25). Other parties were asked to suggest what an appropriate starting salary level should be for a probation officer. District judges (Q2, #25) consider \$10,000 - \$12,000 to be appropriate compensation; prosecuting attorneys set the range at \$11,800 - \$12,000; and criminal defense attorneys were more ambitious in suggesting \$12,500. Such a starting salary would be a substantial improvement for professionals in smaller, rural counties not subsidized by outside monies.

Training

Training for probation professionals around the state is provided either in-house, by the Texas Probation Training Project, or by meetings of the two professional associations, the Texas Corrections Association and the Texas Probation Association. The Texas Probation Training Project, located with the Institute of Contemporary Corrections at Sam Houston State University, began in 1973 and has since that time been supported by a grant from the Criminal Justice Division. During its first year, the project offered five 3-day regional workshops and undertook a needs assessment for probation training around the state. The report which ensued, An Overview of Probation Manpower and Training Needs, asserted that probation in the state was then on the "threshold of genuine professional identity."¹⁰

Representation at workshops was fairly thorough (100 of 123 departments and 434 of some 1060 adult and juvenile probation officers were involved). As the needs within rural probation departments were more severe, trainers concentrated slightly more effort on them to begin with. Needs were determined by probation officers themselves; a table reproduced below from the Overview (page 162) compares initial training needs assessed in this way for juvenile and adult, small and large departments.¹¹ Evaluations of the project's efforts have been very favorable.

This past year the Probation Training Project shifted their emphasis to the development of selected resource people within departments, schooled to return to their home jurisdiction and train other staff. Departments often find it difficult to spare the staff time which extensive training requires. Nonetheless, most officers find the rewards to be equal to the investment.

Three departments already report that five of their staff concentrate on staff development. Information was gathered on in-house departmental training sessions instituted by Travis and El Paso Counties. Potter County is a third. Harris County has recently implemented a training program. Dallas County has had one in the past, discontinued now for lack of financial support. These will be discussed in greater depth in the second volume to this report.

TABLE 13

1973 TRAINING NEEDS FOR PROBATION STAFF COMPARED

<u>NEEDS</u>	RANK ORDER			
	JUVENILE		ADULT	
	SMALL DEPARTMENTS	LARGE METRO. DEPARTMENTS	SMALL DEPARTMENTS	LARGE METRO. DEPARTMENTS
Interviewing and counseling techniques	1	1	1	1
Law	2	2	3	5
Exchange of ideas with other departments, officers	3	10	2	4
Probation theory and techniques, practical application	4		5	6
Developing community-based correctional resources	5		4	
Casework	6	6		
Judicial communications	7	4		2
Department administration, middle management workshop, how to make changes in the department, problem solving techniques	8	8, 9, 11	8	8
Working with judge, probation officer and district attorney	9		10	10, 12
Standard guidelines, uniformity, standard philosophy	10	12		9
Behavior model, interpersonal relations, how to deal with the angry, silent, hard to get along with, rehabilitation	11	5	6	7
How to have staff development sessions back home	12	7		
Overall goals of probation	13			
Changes within the system	14			
New programs nationwide		3	7	3

(Taken from An Overview of Probation Manpower and Training Needs in Texas, Texas Probation Training Project, Huntsville, 1974.)

Thirty-eight departments (30%) reported they have established policies on continuing education opportunities (Q1, #20). Such opportunities are by and large limited to professional workshops and training sessions such as those offered by the Probation Training Project, or those available at T.C.A. and T.P.A. annual meetings. Most of these departments are probably able to make a small portion of their budgets available to cover expenses and fees. Only one department's policy generously encourages probation officers to continue their graduate education by allowing them to take one course on office hours, as an incentive for professional improvement, and offsetting limited salaries and benefits.

4. Casework Supervision

As stated earlier, 90,400 are counted on probation department rolls. Some of these may receive intensive supervision; others, minimum formal supervision if any at all. It is unlikely, for instance, in a county where the probation officer carries 400 on his case load that all but a few clients receive much individual attention. Casework administration around the state varies in case load size, in supervision and enforcement methods, as well as in treatment approach.

Case Load Size

Case load size is the most fundamental difference. A statewide case load picture is gained by averaging the number of probationers, 90,400, for the estimated number of professional staff carrying cases, or 430. The statewide mean case load derived in this manner is 210 probationers. (An average case load just for chiefs, remember, was computed to be about 140.) This representative case load could be dissected into felony cases, of which there would be about 100, and misdemeanor cases, of which the remaining 110 would consist. (Q1, #32.)

This formula is chosen as the fairest possible. It has already been noted that other professional staff besides those classified as probation officers carry cases, for instance the 91 chiefs who stated they supervise probationers. So, too, other personnel assuming special administrative duties

in larger departments. These supervisors, administrative assistants, community developers, employment or alcohol education personnel free probation officers to perform better direct casework services, or to supervise more clients. In settling upon the 430 figure used above, we have included one-half the number of professionals who are not classified strictly as probation officers.

Other case load computations in this report, however, are based on all professional staff. As a result, for some departments the case loads indicated are substantially smaller than those actually carried by probation officers working in the field. For instance, computing the statewide case load average by just the 318 staff classified as probation officers, the figure jumps from 210 to 284 clients.

As a standard of comparison to these realities, department chiefs were asked to estimate what a "manageable case load" for a P.O. would be, and their responses averaged 60 felons, and 70 misdemeanants. Statutory intention of Article 42.12 is that "the case load of each probation officer not substantially exceed seventy-five probationers," (Article 42.12, Section 10, CCP). Most district judges, prosecutors and defense attorneys seem to feel that 75 is an appropriate figure, concurring with the statute's intention (see Q2, #26; Q5, #9, and Q6, #13).

Case load sizes around the state range from a low of 20 to a high of 666. In metropolitan areas, average case loads are 194; in areas with populations of 50,000 to 250,000,

case loads average 303; and in rural areas of population less than 50,000, case loads average 116. Some comparisons of staff sizes and probationers on case loads in six urban areas follow.

TABLE 14
STAFF & CASE LOAD SIZES
METROPOLITAN AREAS

<u>Urban Area</u>	<u>Reported Case Loads (1976)</u>	<u>Total Staff</u>	<u>Professional Staff</u>	<u>Probation Officers</u>	<u>Probtrs. per Professional Staff</u>	<u>Probtrs. per Probation Officers*</u>
Harris Co.	18,437	88	59	39	312	473
Dallas Co.	7,097	61	54	34	131	209
Bexar Co.	5,241	44	27	16	194	328
Tarrant Co.	5,000	38	25	14	200	357
Travis Co.	4,178	82	36	25	116	167
El Paso Co.	1,479	24	17*	12	87	123
<hr/>						
Totals - urban	41,432	337	218	140	Avg.-191	Avg.-276
Totals - statewide	90,400	895	546	318	Avg.-210	Avg.-284
Percentage of statewide figures representing urban areas	46%	38%	40%	44%		

*El Paso's West Texas Probation Department staff also conduct pre-trial release services: hence their actual case loads are larger than reflected here. The figures reported as "probationers per Probation Officers" most closely reflect actual case loads carried for supervision.

Case loads fluctuate over a period of time--according to the season, or to changes in sentencing patterns, or perhaps even to changes in prison and jail populations. This project did not gather data tracing such trends, but did inquire whether departments would be willing to participate in regular data collection. Three-fourths favor "the use of a simple standardized form to be completed monthly on (their) department's case load activity..." (Q1, #37). Two-thirds already maintain such records on their own activities (but not according to a uniform format).

Transfer of Supervision

Persons under probation supervision may for good cause be allowed to leave the county having jurisdiction over that probation, for any length of time (see Article 42.12, Section 9). Such a probationer may be required simply to report by mail to the department exercising jurisdiction. If, however, stricter controls are thought necessary to enforce the probation, physical supervision may be transferred from one department to another. For some courts, judicial jurisdiction is also transferred.

Only eight departments state they do not follow this practice. Ninety-five will transfer supervision in most, if not all cases. (Q1, #39.) A number of jurisdictions prefer that this is done through a formal request to the court (31, or 25%, require this district court cases and 16, or 13%, require this of county court cases; Q1, #40-1).

The request is often granted before notification of case acceptance by the other department.

Traditionally, amendments to court orders concerning transfer are initiated through the department's application to the court, although they may also be petitioned directly by the defendant himself.

The number of cases transferred in this fashion between departments in Texas as of May, 1976, was between 3400 and 3500 (see Q1, #43, 45). Fewer interstate transfers were recorded: approximately 2200 persons placed on probation in Texas are supervised in another state, and approximately 1700 persons probated in another state are supervised by a department in Texas.

A rather small number of courts and probation departments transfer judicial jurisdiction of probated cases: 25 departments indicate they do this in district court, and 14 departments indicate they do this in county court. Judicial transfer is more likely to follow when the probationer is alleged to have violated his probation than when physical supervision is simply transferred between departments (see Q1, #47). Interstate Compact procedures govern case transfers between states, but no such standard procedures are observed between two departments in Texas. The transfer process is made lengthy, unwieldy and confusing by diverse policies and practices, or so practitioners would seem to indicate by their support for a standardized system for intrastate jurisdiction transfer (94 favoring, 17 opposed, Q1, #48). Probation

officers are not alone in desiring greater uniformity. Eighty-two percent (124) of the district judges would like to standardize procedures for returning a probationer to his permanent home from their jurisdiction, and almost as many (76% or 115) would standardize transfers upon alleged violation of probation conditions (Q2, #46). Comparable support was voiced by county judges (80% in the first instance, and 70% in the second; Q3, #33), and nine out of ten prosecutors were favorable (Q5, #42).

Other Casework Issues

No data were gathered about reporting requirements. Normal supervision calls for monthly reports. Court of Criminal Appeals rulings suggest that frequency of required reporting should be specified in the probation order. A PSI should indicate reporting needs to the sentencing judge, and when needs change the order may be amended. Flexibility is important to effective casework management.

Weighted or adjusted supervision is a well-established, economical practice, conforming to common sense wisdom that some people require and/or respond to more intensive supervision than others. P.O.'s in most probation systems must necessarily judge where their time will be best spent, since the demands on their time and functions are endless. Specialized case loads are designed to economize and focus energies most usefully. In some places, standard, relatively

objective criteria decide whether each case needs minimum, medium, or maximum supervision. California pioneered these criteria in the 1950's and '60's.

A review of the various screening or predictive tools used to project probationer (or parolee) success and needs may be found in the Comptroller General's Report to Congress, already cited, on State and County Probation: Systems in Crisis (Washington, 1976). More will be said about those models validated by research done for the GAO study in Volume 2: Problem Analysis and Recommendations. We know of only a handful of departments presently experimenting to some degree with an objective scale or model for screening.

Revocation

Probation of a sentence is made contingent upon terms or conditions as defined in Article 42.12. Besides the ten standard conditions, others reasonably intended to promote rehabilitation of the offender may be specified. Judicial decisions have defined limits to a court's authority to impose these extra conditions upon the probationer, and have recommended procedures to insure that the probationer understands these conditions; some of the most important decisions were cited already in Chapter Four (see pages 78 - 86). The probationer must receive a copy of his terms and the court clerk must note defendant's receipt of this copy on the docket. A better practice still is for the P.O. to deliver terms and

conditions, explain them to the probationer, obtain a signed statement of receipt from him, and then file same with the clerk of the court.

Procedural safeguards are likewise built into the probation revocation process. For the defendant, a substantial loss of freedom is placed on the line. For the system of probation, its very efficacy and credibility are placed on the line, as there must be some means for justly enforcing sanctions dictated by law and authorized by society.

It will be difficult to arrive at generalizations concerning revocation procedures and policies around the state. We can look briefly at whether enforcement of probation conditions has changed over the years. Statistically, the conclusions to be drawn are limited. T.J.C. data on revocations granted and felony probation dispositions seem to show that the two have held a constant ratio over the past five years, until 1976.

TABLE 15

	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>
Probations Revoked	2,154	2,332	2,416	2,664	3,495	3,781
Probations Granted	15,800	17,000	15,800	20,000	23,700	22,800
Percentage Thereof	14%	14%	15%	13%	15%	17%

(T.J.C. Annual Reports, 1971-1976.)

As of 1974 T.J.C. began recording the number of motions to revoke filed as well as the number granted. In 1974, 39% of the motions filed were granted; in 1975, 46% of those filed were granted; and for 1976 the percentage was 43%.

Dallas County has studied their revocation activities and provided some pertinent and interesting data: according to their records, 55% of revocations in the county are granted against young adults aged 21 or under, and 46% of those whose probation is revoked were originally convicted for a burglary offense.

One standard provided by the survey, from which statewide revocation activity may be measured is a tally of probationers who "had motion to revoke warrants or summonses outstanding as of 5/1/65." In district courts 5,530 and in county courts 3,040 were outstanding--a total of 8,570. (Q1, #49.) This represents one-tenth the total number of probationers in the state.

What factors affect revocation practices? Four may be isolated.

-Adequate supervision, so that the P.O. knows when a new offense is alleged of a probationer, or when he has absconded, failed to make payments, failed to support his family or to comply with other special conditions. Adequate administrative support and case management are necessary so that violations may be noted and processed with dispatch.

-Departmental policies, allowing flexibility in enforcing certain elaborated conditions: should loss of a job and subsequent non-payment of fees occasion revocation? should drunk charges? or failure to attend therapy? The

P.O. is the controlling agent, making most of these decisions; most are made according to special circumstances of the case.

-Court policies likewise impinge. The prosecuting attorney's views are crucial. District and county judges alike place enormous weight on their D.A.'s or C.A.'s recommendations when sentencing (see Q2, #30 and Q3, #22). The court may or may not agree with departmental policies or P.O. recommendations.

-Practicalities also may affect a decision to proceed with revocation, especially when a probationer is apprehended at a distance or convicted and sentenced for a new offense elsewhere. When a prison sentence is handed down, some courts do not feel it is worth their time or money to revoke. If the new sentence is short, the original court may desire to retain jurisdiction in the event the probationer is released and returns to the community.

Prosecutors are generally inclined to recommend a motion to revoke for violation of the following probation conditions, in descending order. (Taken from responses to Q6, #43.)

TABLE 16

1.	Jailable misdemeanor violations	- 85%	(123)
2.	Restitution (failure to pay)	- 70%	(101)
3.	Violation of special orders (drinking, failure to accept drug or alcohol treatment, curfew, etc.)	- 67%	(97)
4.	Fines (failure to pay)	- 63%	(91)
5.	Absconding	- 61%	(89)
6.	Reporting violation	- 58%	(84)
7.	Costs (failure to pay)	- 55%	(80)
8.	Probation fees (failure to pay)	- 45%	(65)
9.	Nonsupport of dependant(s)	- 44%	(64)
10.	Non-jailable misd. violation	- 21%	(30)

District and county judges both responded to questions about charges for which, given admissible evidence, they would generally revoke probation (Q2, #39 & Q3, #32). Their responses follow:

TABLE 17

<u>District Judges</u>		<u>County Judges</u>	
Absconding	64% (98)	Another county-level misdemeanor	63% (155)
Reporting violations	57% (86)	Failure to comply with special conditions	58% (143)
Misdemeanor law violation	51% (78)	Nonpayment of monies	52% (127)
Violation of special orders	49% (75)	Reporting violations	46% (113)
Nonpayment of monies	25% (38)	Absconding	44% (109)
None of these	10% (15)	None of these	4% (10)

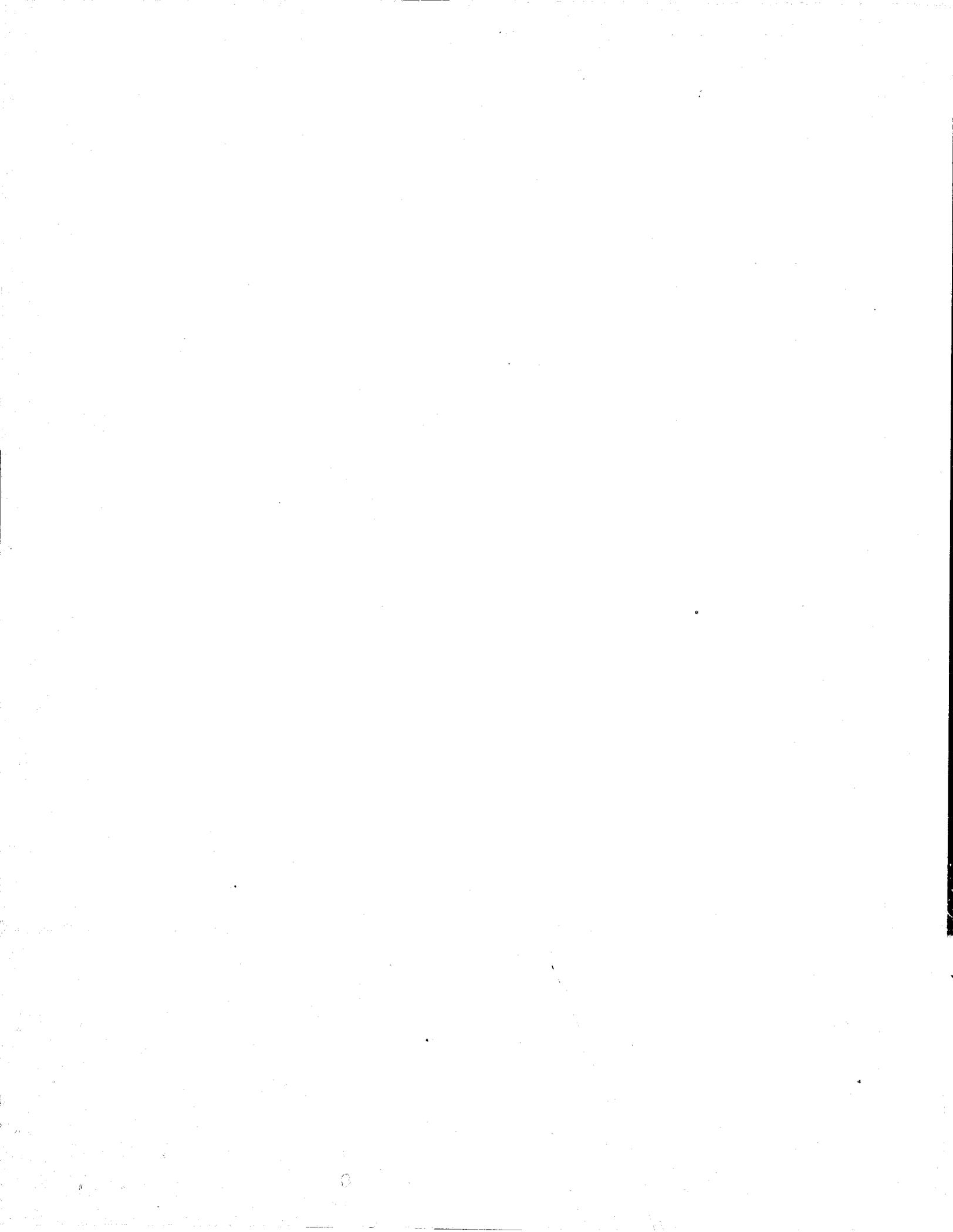
Comments qualified these responses, indicating that revocation usually follows only upon a very serious violation or a series of violations.

Questions #49-52 of Q1 cover the issue of returning apprehended probationers for revocation hearings. Departments seem to fall generally into two camps, stating either they seldom bring the errant probationer back to their jurisdiction for hearings (less than a quarter of the time), or they usually bring him or her back (more than three-quarters of the time). Prosecutors estimate more conservatively. Fifty-four percent state that apprehended probationers are returned in less than a quarter of applicable cases (Q5, #40).

Early Termination and Dismissal

A probation period may be terminated and case dismissed after "successful" fulfillment of its terms for not less than one-third the length of probation originally ordered by the court, or two years, whichever is less. Probation departments were asked about termination policies in their jurisdictions. Ninety-six, or 77%, stated their district courts would grant early termination. Fifty-six, or 45%, stated county courts would do likewise. A number of the district courts (about one-third) require the probationer to be represented by counsel for this proceeding, but very few county courts make this requirement (Q1, #54). Prosecutors are enthusiastic about early termination (77% showed their support; Q5, #36), so long as they are party to the recommendation, and the terminated probation remains admissible as part of a criminal record.

Upon completion of the terms of probation, a defendant may file a motion for dismissal of his case, conviction never having been made final by the court. Normally the probation department assists by following through on this action (77 departments follow through in district courts, and 80 departments follow through in county courts; Q1, #55). District courts appear to be very cooperative with this request: only 7% were said by P.O.'s categorically not to grant dismissal. County courts are perhaps less cooperative--only two-thirds apparently grant dismissal. Again,



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legal counsel may be required by certain courts. (Q1, #56.)

Both technically and philosophically, a defendant's record is cleared by dismissal of either felony or misdemeanor charges. Several important contradictions to this are apparent in the law. Article 42.12, Section 3a, prohibits juries from recommending probation should it be shown that the defendant has ever before been convicted of a felony. Section 7 of the same statute, allowing dismissal of the case and defendant's release "from all penalties and disabilities resulting from the offense or crime," restores civil rights and permits the holding of office. However, "should the defendant again be convicted of any criminal offense" proof of prior conviction or plea are to be made known to the court. As a result records are seldom destroyed or expunged; a historical record is retained by both court and department. Another exception to the release from "all penalties and disabilities" is the construction by an Attorney General's Opinion of 1970 (No. M-640), that a former probationer "may not truthfully state he has never been 'convicted' of a felony in an application for employment."

After probation is terminated, expunged, or expires, many departments simply store case records in county archives or obscure closets (see Q1, #59). In fact, very few departments (36, or 27%) believe records should be expunged after termination (Q1, #57). And only a conscientious few follow through after dismissal to see that FBI records are expunged (20, or 16% see to felony dismissals, and 13, or 10% see to misdemeanor dismissals: Q1, #58).

Follow-up evaluation, after probation has been terminated, is variously provided by the courts, the probation department, or some other agency in a very few (13) jurisdictions (Q1, #60).

5. Community Resources: Management, Development & Use

At this point a reminder that probation is but one phase in a range of "corrective" community functions is probably in order. The administration and effectiveness of probation are contingent upon the attitudes and work of police, prosecutors and the courts. Probation does not operate in a vacuum in the community. Rather it depends on the cooperation and help of all the institutions which affect, and against which we measure the quality of our lives--schools, employment programs, charities, hospitals, and other remedial agencies such as mental health clinics and vocational rehabilitation programs.

Whatever the cause-effect relationship, a high correlation has been demonstrated between criminal activity, on the one hand, and social and economic problems or handicaps, on the other. Hence a large number of persons under probated sentences either receive or need public assistance from agencies other than the district or county probation departments.

The project asked departments to "estimate as accurately as possible" the number of probationers receiving various forms of public assistance (Q1, #94). Results show that: (a) 73 departments counted 3,590 clients receiving welfare assistance, constituting 5% of all their clients; (b) 76 departments counted 5,040 clients receiving food stamps, constituting 7% of all their clients; (c) 74 departments

counted 5,497 probationers receiving unemployment compensation, 9% of case loads; and (d) 9 departments counted 233 receiving other forms of subsistence, or charity (exclusive of social security, old age assistance and disability claims). Although some clients may receive assistance from more than one source simultaneously and so are counted twice, others are not included in this count at all. We may safely conclude that 14,000 probationers, or about 15% of the probationers on whom we have information, receive some form of public assistance.

Direct financial assistance may be crucial to some probationers' success at sustaining themselves in the community. Effective community corrections depends just as importantly, however, on diagnostic, treatment and remedial services of a wide variety - services for which the probation officer often cannot or should not be responsible himself. Availability of special services (for example, urine analysis, alcohol detoxification, or family therapy for the youthful offender) remains a problem for many rural departments. Even where services are available, there is evidence that some probation officers either may not be aware of their purposes or may not understand their job to be one of managing those services for the benefit of clients.

As a broad management scheme, the probation officer as the manager and/or developer of community resources is a relatively new construct. The West Texas Regional Probation Department in El Paso has carried this construct to its

logical conclusion under a model, grant program. Sixteen of the 28 P.O.'s around the state noted as having specific responsibility for "community resource development" (see Q1, #14) function in El Paso. Emphasis in probation casework management is shifted, from one-to-one direct provision of services, to coordination of those services as they are provided by other community agencies.

Some larger departments have been noted for "taking the initiative in promoting the expansion and improvement of services incidental to gaining access to them for its clients."¹² This points to yet another problem area besides probation officer education or attitude, and the availability of resource agencies: namely, client access to services. Referral criteria and procedures must be clearly defined in communities, and agencies must work together to achieve this. Some 28 resource agencies polled around the state assert that they have problems coordinating their services for probationers with the probation department (Q7, #11), although most stated they enjoy either good or excellent cooperation between offices (Q7, #10).

Interestingly, no consensus emerged among resource agencies that probationers were either harder to work with, or have a higher failure rate than other clients (Q1, #8-9). Most of those agencies who did judge a higher failure rate among probationers deal with employment problems. The special problems attached to working with probationers, as seen by professionals in resource agencies, are:

- 1) the stigma attached to offenders, especially by employers;

- 2) more severe educational and vocational disabilities;
- 3) lack of motivation (this point was disputed); and
- 4) the probationer's value system.

Survey responses and commentary indicate that many resource agencies possess a good understanding of the problems and needs of the probation systems, and play a significant supportive role to those departments who have learned to work with them.

Use of Services

Departments were asked to indicate whether 23 different types of services which might be provided to probationers by an outside resource agency were 1) available, and 2) utilized (Q1, #100). They also estimated the number of their clients using each type of service. Responses are reproduced on page 192. Unfortunately several of the large metropolitan departments declined to estimate the number of their cases receiving such services in 1975, so our tallies are in no sense complete.

Nine of the services listed were available to fewer than one-half the participating probation departments. The services most likely to be available for the use of probationers are testing and screening, employment and vocational remediation, personal counseling and help with drug or alcohol problems, each briefly reviewed here.

1. Personal counseling: Available to 71% (88), utilized by 52% of the departments. Almost as often provided by department staff as by an outside resource, and in some departments provided by both. Forty-five departments estimated that

22,160 cases receive such counseling (48% of those departments' case loads).

Group and special family counseling are not provided or used so broadly around the state. In 23 departments 2,678 clients participate in group counseling (4% of their case loads), as opposed to more traditional one-to-one work. In 29 departments, 1,808 clients undergo family counseling (4% of their case loads). Several departments who stated they do utilize these case work techniques did not provide a count.

2. Alcohol treatment: Available to 68% (85), utilized by 56%. Offered "in-house" by 8 departments - elsewhere the function of an outside agency. Only 2,484 cases were counted, by 48 departments (5% of their respective case loads).

Approximately 64,000, or one-third, of the criminal cases filed in county courts in 1975 were filed for DWI offenses. Since we do not know from T.J.C. data what percentage of probation dispositions were for DWI offenses, we might assume the same proportion of the state's 39,800 misdemeanor probationers were probated for DWI. That is, as many as 13,000 probationers in the state may have some kind of alcohol problem requiring

probation controls and services. Of these, at least 2,500 (one-fifth) received specific treatment.

Medical alcohol detoxification services are not so broadly available or used by probationers: 248 cases were counted in 29 departments (1%), although other departments indicate they also use this service as needed. The most common tactic, however, for rehabilitating offenders with alcohol and the related problems is alcohol abuse education.

Classes for a known 6,357 probationers (one-half the group concerned, by our guess) were offered through 37 departments; fourteen percent of their clients participated. Twenty-seven departments offered their own instruction, and seventy departments noted a program outside their own staff (some of them overlapping).

3. Vocational rehabilitation training: available to 66% (82), utilized by 55% of the departments. Forty-nine departments counted 2,713 cases referred to agencies equipped with these services (5% of their respective case loads). Two departments said they were themselves equipped.

4. Psychological/Psychiatric testing and evaluation: Available to 64% (80), utilized by 51-54% of the departments, again mostly as a function of outside resources. At the most, 11 departments have probation staff prepared to test and/or evaluate probationers. The number "tested" in 1975 was estimated to be 1,187 (2% of the case load in 49 departments); the number "evaluated"--1,982 (4% of the case load in 45 departments). Again, about the same number of departments test aptitude (10 do so in-house), with 40 departments identifying 1,934 probationers (4%) so tested.

Physical examinations appear to be possible for 55% (69) of the departments. All but 3 departments arrange for these through clinics or other outside resources. We have information from only 33 departments, who arranged for 708 examinations (for 2% of their clients) during the year.

5. Employment placement/counseling: Available to 64% (79), and utilized by 53% of the departments. Counted were 7,622 cases receiving job help from 47 departments (15% of their clients). This seems to be the second most frequent and important service made available to probationers (the most frequent is personal counseling). Thirty-five departments do this themselves. Others, and

some of these as well (62 in all) use an outside resource, for instance the Texas Employment Commission.

6. Drug treatment: Available to 58%, utilized by 43% of the departments. Two departments are equipped with their own staff (one is Travis County where a special T.A.S.C. project is funded); 71 departments go outside for help with drug problems. Help was offered to over 1,053 probationers through 36 departments (2% of their clients). Again, detoxification services are possible for 51 (41%) departments; 262 probationers (1% of their clients) were referred by 26 departments. Urine analysis is possible for about the same number (52 or 42%) of departments, although fewer make use of it. We counted 11 departments capable of doing urine analysis in-house.

Drug education could be conducted for 53% (66) of the departments surveyed, and is in fact used by 37% of them. For the most part another agency handles this, but 14 departments educate probationers themselves. We know that 5% of the clients in 26 departments offering this service participate, a recorded total of 1,914.

7. Residential treatment: Available, within 100 miles, for 63 probation departments; used by 46 of them. In one case this treatment center is attached to the department. Those 37 departments which estimated the number of clients in residential treatment counted 1,003 (2% of the whole). We suggest that there could be as many as 200 more under treatment in a year's time, not included in this count. Under the same heading, a halfway house was claimed to be available for 45% (56) of the departments, although only 31% (39) use them, and only 25 departments counted 6% of their clients participating in a halfway house--2,317 were counted around the state. Once more, this figure may be low.

These two sets of figures, then, suggest that over a year's time at least 3,320 probationers, and probably more, receive some form of residential treatment in the community as a condition of probation.

8. Non-judicial probation: A procedure available to 32 (26%) of the 125 departments, and used by almost as many--29. The supervision aspect is handled by the probation department in 27 of the 32 jurisdictions. In the other five departments, another service agency handles persons diverted in

this manner. Only 11 departments, however, provided a count of cases handled non-judicially, totaling 111 (3% of their case loads). These figures indicate with some accuracy the narrow limits within which such alternative practices as non-judicial probation are used around the state.

9. Education and training, and referral, etc.:

Other significant categories of services which may be (but are not necessarily) tendered by outside resource agencies or organizations are shown on page 192. See also summary tallies for loan funds and transient housing.

TABLE 18

Community Services
Department Access & Use

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

SERVICE	AVAILABLE		OUTSIDE RESOURCE	WITHIN DEPARTMENT	UTILIZED		ESTIMATED CASES 1975 (TOTAL)
	Yes	No	Yes	Yes	Yes	No	
Physical examination	Yes 55% (69)	No 19% (24)	Yes 53% (66)	Yes 2% (3)	Yes 42% (52)	No 7% (9)	708 (2%)**
Psychological/psychiatric testing	Yes 65% (81)	No 11% (14)	Yes 60% (74)	Yes 9% (11)	Yes 54% (67)	No 4% (5)	1187 (2%)
Aptitude testing	Yes 54% (67)	No 18% (23)	Yes 51% (63)	Yes 8% (10)	Yes 41% (51)	No 10% (13)	1934 (4%)
Psychological/psychiatric evaluation	Yes 64% (79)	No 11% (14)	Yes 60% (74)	Yes 6% (8)	Yes 51% (63)	No 3% (4)	1982 (4%)
Vocational rehabilitation/training	Yes 66% (82)	No 7% (9)	Yes 63% (78)	Yes 2% (2)	Yes 55% (68)	No 3% (4)	2713 (5%)
Employment placement/counseling	Yes 64% (79)	No 10% (12)	Yes 50% (62)	Yes 28% (35)	Yes 53% (66)	No 3% (4)	7622 (15%)
Residential treatment within 100 miles	Yes 51% (63)	No 22% (27)	Yes 46% (57)	Yes 1% (1)	Yes 37% (46)	No 7% (9)	1003 (2%)
Halfway House	Yes 45% (56)	No 28% (35)	Yes 43% (53)	Yes 2% (2)	Yes 31% (39)	No 10% (13)	2317 (6%)
Alcohol treatment	Yes 68% (85)	No 8% (10)	Yes 67% (83)	Yes 6% (8)	Yes 56% (69)	No 3% (4)	2484 (5%)
Alcohol detoxification (medical)	Yes 49% (61)	No 25% (31)	Yes 49% (61)	Yes 1% (1)	Yes 35% (44)	No 9% (11)	248 (1%)
Drug treatment	Yes 58% (72)	No 18% (22)	Yes 57% (71)	Yes 2% (2)	Yes 43% (54)	No 7% (9)	1053 (2%)
Drug detoxification (medical)	Yes 41% (51)	No 27% (33)	Yes 42% (52)	Yes 1% (1)	Yes 29% (36)	No 11% (14)	262 (1%)
Urine analysis	Yes 42% (52)	No 27% (34)	Yes 36% (45)	Yes 9% (11)	Yes 25% (31)	No 12% (15)	411 (1%)
Personal counseling	Yes 71% (88)	No 5% (6)	Yes 44% (55)	Yes 56% (69)	Yes 52% (65)	No 3% (4)	22160 (48%)
Group counseling	Yes 50% (62)	No 23% (29)	Yes 38% (47)	Yes 18% (23)	Yes 31% (38)	No 15% (19)	2678 (7%)
Special family counseling	Yes 56% (70)	No 18% (23)	Yes 46% (57)	Yes 22% (27)	Yes 40% (50)	No 10% (13)	1808 (4%)
Alcohol abuse education	Yes 64% (80)	No 10% (12)	Yes 56% (70)	Yes 22% (27)	Yes 47% (58)	No 9% (11)	6357 (14%)
Drug education	Yes 53% (66)	No 17% (21)	Yes 50% (62)	Yes 11% (14)	Yes 37% (46)	No 11% (14)	1914 (5%)
Non-judicial probation	Yes 26% (32)	No 44% (55)	Yes 4% (5)	Yes 22% (27)	Yes 23% (29)	No 11% (14)	111 (3%)
Loan funds	Yes 4% (5)	No 65% (81)	Yes 3% (4)	Yes 2% (2)	Yes 4% (5)	No 15% (19)	5 (1%)
Transient housing	Yes 20% (25)	No 48% (59)	Yes 19% (24)	Yes 2% (3)	Yes 15% (19)	No 10% (13)	272 (1%)
Referral services	Yes 44% (55)	No 21% (26)	Yes 38% (47)	Yes 24% (30)	Yes 38% (47)	No 3% (4)	3751 (10%)
Education & training	Yes 49% (61)	No 21% (26)	Yes 46% (57)	Yes 4% (5)	Yes 35% (43)	No 8% (10)	3298 (8%)
Other*							
*Identify: -----	Yes ---	No ---	Yes ---	Yes ---	Yes ---	No ---	---

**Percentage listed under "Estimated Cases" reflect percentage of clients supervised by all departments estimating the number of cases referred for this service.

Q1-000
Probation Officers

6. Financial Sanctions and Assessments
(Fees, Costs, Fines & Restitution)

Nearly \$11,500,000 passed through the able hands of probation officers during 1975. This is a mere fraction of total revenues generated and collected by district and county courts for criminal cases, since clerks gather in revenues independently of probation departments. The Texas Judicial Council's annual report for 1975 shows, for instance, \$28,300,000 collected for criminal fines only from district courts (no data appear for county courts). The Harris County Probation Department alone takes in well over \$1 million annually for probation fees and restitutions. Such income puts the courts system on par with a big business.

Monies which may be processed by probation departments include probation supervisory fees (most importantly), court costs, fines, and court-ordered attorney's fees. Pages 2 and 3 of the probation officer questionnaire (see Appendix A) summarize the number of courts with criminal jurisdiction assessing each type of levy for probation departments to collect. As may be seen there, probation fees and restitution are the most commonly assessed and collected.

A summary of amounts probation departments collected in 1975 is reproduced below. (Figures for court costs and fines may not be exact, as these two categories are assessed and collected as one by some departments. (Taken from Q1, #87.)

TABLE 19

Please complete the following information concerning funds collected for probated cases in 1975. (Indicate Yes 13% (16) No 38% (47) if figures on court costs and fines are totals collected by county or district on all cases rather than on probated cases. 49% (61) NA.)

KINDS OF FUNDS COLLECTED	TOTAL DOLLARS COLLECTED		
	DISTRICT COURT	COUNTY COURT	BOTH COURTS
Probation fees	\$3,059,510	\$1,144,548	\$ 4,204,058
Court costs	887,632	1,270,921	2,158,553
Fines	922,082	2,665,071	3,587,153
Restitutions	1,418,926	46,492	1,465,418
Totals	\$6,288,150	\$5,127,032	\$11,415,182

Fees

Texas is one of perhaps a dozen states, and was one of the first, allowing courts to assess a fee (up to \$10 per month) from the probationer. The fee is expressly intended to subsidize supervision and treatment services received under a probation system. The provision for a fee is a controversial one, yet it seems to be gaining credence, as other states have adopted it in the past five years for its obvious pragmatic value. The fee's critics argue: 1) the coercive aspects of probation (since probation in a sense is not voluntary, the probationer should not be forced to pay for something he may not want; 2) the inequities possible for that large portion of probationers who are poor; and most convincing 3) the potential for misplaced emphasis on revenue generation by courts and probation departments, which may thereby be reduced to mere collection agencies.

Some courts, endorsing these arguments, will not order a probation fee as a rule. Seven departments state they work with a district court who does not, and twenty-five departments note a county court or courts who do not (Q1, #81). Only four district judges, however, assert they never order probation fees (Q2, #33), while 36 county judges allege they never order the fee (Q3, #16).

Whatever the merits of arguments against it, it is nonetheless true that the fee meets expenses for a good number of probation departments which probably would not

otherwise survive. Probation fees collected from district and county courts and accounted for in the survey amounted to \$4,200,000 (see page 250--Q1, #87). Looking at total statewide budgets for probation--approximately \$10,500,000--fees, then, underwrite almost 40% of the costs. By comparison, C.J.D. grants underwrite about 20%.

The 1971 survey estimated \$2 million collected in fees that year, which constituted 25% of the statewide budget (\$8 million). Hence collection of probation fees have more than doubled and the fee is taking on increasing importance for the financing of probation systems.

Fee collections are strikingly more significant to the financing of departments in rural areas than they are in urban areas. Departments covering jurisdictions with less than 50,000 population (81 total) collect, on the average, 53% of their budgets in fees. Departments covering populations of 50,000 to 250,000 (39 total) collect an average of 45% and the five largest metropolitan departments collect an average of 31% of their respective budgets through their fees.

We queried probation departments about the "degree of emphasis...placed upon collection of probation fees in (their) jurisdiction," and found, not surprisingly, that "strong" or "very strong" emphasis is placed in 63% of their district and county court jurisdictions. The survey also established that 6 departments meet or exceed their budgets in fee collections; that fee collections by 27 departments

comprise more than one-half their budgets in 42 departments, and less than 15% in only 9 departments: 41 departments either collect no fees or provided no information on fees collected. Probation fees will no doubt continue to subsidize services for some time to come.

Manner of Collection

Statute dictates that probation fees collected may be distributed for the following purposes, as determined by a 1971 Attorney General's ruling:

...salaries of probation officers, secretaries, and other office personnel, probation office expenses; auto travel allowance for probation officers, and bona fide educational training expenses for probation officers (including registration fees, travel, and subsistence expenses while attending seminars or taking academic training at colleges or universities or other appropriate institutions which sponsor courses of study or training relevant to the education and training of probation officers). Op. Atty. Gen. 1971, No. M-784.

There is little rule or rhyme to the manner of handling collections: each county is governed in this by its own convenience. Hence in some jurisdictions county and district clerks handle court costs, fines, attorney's fees and so forth. In yet other jurisdictions, these may be handled by the sheriff. A probation department with four courts within its jurisdiction may collect court costs for three of them, and fines for only two. Other complex and extraordinary combinations are evidenced by departments.

Many departments do not seem to find collection of all these monies an unnatural inconvenience, as evidenced by responses to Q1, #79 (which see). A substantial number of departments would, however, shift responsibility for collecting fines and court costs to county and/or district clerks. The latter arrangement seems similarly suitable to district and county judges (see Q2, #31 and Q3, #20), and to prosecutors (see Q5, #44).

Bookkeeping procedures are also highly individualized. Hence figures given for collections from district courts and county courts in Q1, #87 are not sorted out exactly, for records often do not seem to be kept according to the court levying those fees, fines and costs. Some counties also did not differentiate court costs and fines.

The probation fee is almost exclusively the responsibility of a probation department. When case supervision is transferred within state, the fee is often retained by the supervising department. A small majority of probation chiefs (55%) feel this to be a just disposition, since that department is actually doing the labor (Q1, #82). Again, there is no statewide consistency here.

Some departments expedite collections and bookkeeping by mailing out reporting forms with an addressed envelope, to be returned to the department with check or money order enclosed.

Many courts make a concerted effort to be fair in assessing and enforcing fees, fines and costs from defendants

with severely limited means. We know that the maximum possible fee is not assessed for every probationer in the state: if it were, assuming a constant probation population of around 90,000 paying the fee year-round, \$10,800,000 in revenues would be generated, whereas less than half of that appears now to be collected. Sticking to our assumption of 90,000 probationers paying year-round, we determine that each would now pay on the average \$4 per month, in probation fees only.

Failure to Pay

What happens in the event a payment is not met? Again, procedures and policies vary. A handful of departments automatically send out a notice of failure to pay, reminding the probationer that his "welfare" is conditioned upon payment of the fee. After a grace period passes, any of several avenues may be pursued. The P.O. may investigate the cause--failure to make payment often indicates other problems such as loss of job, arrest, or other "extended vacation." The court, probation officer, and/or district attorney may decide to issue a motion to revoke if failure to pay is not satisfactorily explained and/or remedied. An alternative route for collection of past-due or withheld fines and costs is issuance of a *capias profine*. Information regarding administrative responsibility for either of these actions is found in Q1, #84-86 (which see).

Restitution

Restitution was mentioned earlier as the other category of money collections falling naturally to probation. Approximately \$1,500,000 was collected in 1975 for restitution payments by departments, according to figures submitted to us. There is no way of determining to how many victims this money was distributed. If one were to assume that one-third the misdemeanor and felony probationers, or approximately 30,000 persons, were under order to pay restitution, each of these would have averaged paying \$50 over that year. Restitution charges, not represented in the \$1.5 million figure, are also assessed of persons not placed on probation. Thus it is difficult to say how much more is categorically collected statewide. The probable amount seems quite small, in any case, especially in contrast to other forms of financial sanctions and collections.

Fines and Court Costs

One-half the monies collected by probation departments for county and district courts--\$5,800,000--comprises fines and court costs. A total of \$3,600,000 was collected in 1975 for fines for misdemeanor and felony probationers, and a total of \$2,200,000 was collected for court costs.* Eighteen departments responding to our inquiry indicate they

* Caveat: some departments lump court costs and fines together, and sorting these two out involved guess work.

collect fines and court costs for all cases, not just cases probated (Q1, #87).

More fines and costs seem to originate from the county courts than from the district courts. The proportional balance indicated (that 59% of court costs originate from county courts, and 74% of fines originate there) is not precise. However, the record does accurately reflect a heavier use of fines by county courts. Indeed, one-half the district judges concerned, when invited to suggest how often they require fines in probated cases, replied either "never" or "less than 15% of the time" (Q2, #32). Two-thirds the county judges polled, on the other hand, will "require the defendant to pay court costs when applying for probation as a requirement of eligibility" for that probation (Q3, #17).

Court-Appointed Attorney's Fees

One final fee deserves mention. Since 1975, a goodly percentage of courts have begun to order defendants whose sentences are probated to pay a court-appointed attorney's fees, essentially reimbursing the court for its expense in providing legal representation. Like the probation fee, this practice earns respectability by its pragmatism, returning a portion of the burden for administering justice to those responsible under the law for first creating that burden.

Court costs have historically paid for part, occasionally all, a county's or district's expenses for appointed counsel.

But over the years expenses have increased as the right to counsel has been asserted and exercised in more and more litigation. At present the attorney's fee appears to be collected sporadically: 14 county courts state they order such payment "in every case," and 27 state they order it "in most cases," together constituting 17% of the county courts represented in the survey; but 47% (116) of the county courts state they never do so (Q3, #19). District judges are more given to this practice, since 36% (70) order the payment in most or all cases (Q2, #34).

7. Budgeting

Probation departments were asked to provide their total approved budgets for 1976 (Q1, #88), and responses for 117 departments totalled \$10,480,500. No budget information could be obtained from either the department or the county fiscal officer for eight departments. Some of these offices reported they operate out of their county's general fund. Checks against CJD allocation records indicate that some grants were not reported and hence are not included in this total. Taking this figure, then, for the 90,400 probationers identified on case loads statewide, we find an average of \$116 currently spent on an offender in Texas over a year's time.

The average budget across the state for a probation department is \$89,000 (on the basis of 117 departments). This figure is skewed, however, by the extreme range of fiscal effort represented: at the one end, \$1,200 is spent by Martin County, and at the other, \$1,740,000 is spent by Harris County. The fiscal health of these departments is represented more clearly by the amount of money expended for each probationer on a district or county's case load. Martin County, for instance, expends approximately \$18 per probationer (per capita), having only 68 on its case load. Harris County expends \$94 per capita, having a case load of 18,440. Sixty-three departments expend more per capita than does Harris County, even with its huge budget.

In fact, the mean department expenditure per capita (found by averaging the sum of per capita expenditures for all departments by the number of departments reporting a budget) is \$153. Harris County and several other urban departments fall far below this statewide mean. The per capita expenditures in Bexar and Tarrant counties are \$102 and \$85, respectively. Other metropolitan areas fare better: Dallas is able to expend \$176, El Paso--\$184, and Travis--\$192 per probationer. Around the state, per capita expenditures range from less than \$10 (Yoakum County) to about \$870 (Floyd County).

On the whole, the smaller, more rural departments seem to fare better than those with urban jurisdictions. The mean per capita cost among all departments covering a population less than 50,000 is \$169, while among departments covering a population between 50,000 and 250,000 this figure is \$127, and among all other urban departments it is \$139. Budgets for 81 rural departments totalled \$2,060,000 (20% of the \$10,480,500 statewide expenditure); budgets for 39 urban-rural departments totalled \$3,600,000 (35% of the state total); and budgets for 5 urban departments amounted to \$4,748,000 (or 45%).

Federal monies actually expended throughout the year amounted to something over \$2 million. According to CJD records, the amount allocated for fiscal year 1975 was \$2,037,500. Probation departments reported fiscal year 1976 grants of \$2,053,500. Allocations diminished in the corrections category as a whole in fiscal year 1977 (also pertinent

to calendar year 1976); this estimate is therefore deemed adequate for our purposes, and accounts for 20% of the total fiscal effort for probation.

The total amount spent statewide--\$10.5 million--represents a five-year growth in all expenditures of 31%. A larger proportion of funding now comes from local communities, as CJD grants underwrite only 20% of statewide expenses; in 1971 this proportion was 30-40%. While funding has grown by 31%, the number of probationers receiving (or anyway, needing) services appears to have grown at the same rate, or faster. The 1971 CJD survey counted 68,600 probationers, and this 1976 survey counted 90,400 (excluding those who receive no supervision), or 32% more.

Hence, what might seem a hugely improved investment in probation in fact amounts to no real gains. Mean expenditure per capita has kept its level: statewide it was \$117 in 1971, and \$116 in 1976. In other words, increased expenditures have been completely absorbed by greater use of probation around the state. What is more, inflation rates have eaten into the true purchasing power of state and local governments during these five years. The state and local government deflator index, published by the Council of Economic Advisors, shows a deflation of 37% in the ability of these budgets to purchase goods and services.¹³ While this deflation factor may not have directly affected the quality of services provided by probation systems, it certainly has pinched office management and administration of these systems.

The burden assumed so far by local governments in meeting the needs of their probation systems has been mitigated by increased levies of monthly probation fees in recent years. In 1971 fees of \$2 million supported 25% of all department budgets. In 1975 fees of \$4.2 million supported 40% of the total effort. As already mentioned, fee collections for a quarter of the probation departments comprise more than 50% of their budgets, and as federal monies are diffused or diverted elsewhere, fees promise to assume a still larger share of financing for probation systems.

If over a year's time \$116 is spent on a single probationer, the per diem cost of maintaining that probationer in the community is \$0.32. By comparison, per diem cost for 1976 for incarceration at TDC facility is conservatively estimated at \$5.97, and is projected to rise to \$6.85/day by 1978.¹⁴ Comparable cost for the entire parole selection and supervision process is projected to be \$1.80/day by 1978.¹⁵ Appropriations for TDC, in fiscal year 1976, were \$54,956,380 (operating expenses for TDC are also met by revolving funds not included in appropriations). The Board of Pardons and Parole operated with an appropriated budget in fiscal year 1976 of \$3,834,257.¹⁶ Clearly, probation is by far the least expensive corrective program widely available in the state.

B. DIVERSION

Diversion is broadly defined for our purposes as "any community or local judicial procedure by which an accused is treated and corrected prior to or in lieu of trial." Hardly a new or radical concept now, ten years after presidential commissions began exploring this as a formal alternative to excessive incarceration and spiralling crime rates, diversion from trial as an institution remains yet to be explored in most Texas communities. A large question is, why?

Diversion programs were canvassed in three separate survey instruments. Using our definition quoted above, probation departments were asked whether they "have a diversion program" and 22 said they do, without specifying who operates it (Q1, #62). Both county sheriffs and chiefs of police were asked to note whether a diversion program functions in their county (Q8, #10 and Q9, #14). Often there was no agreement on this point, probably due to the breadth of definition used for diversion. Diversion procedures run the gambit in different communities from police and prosecutorial discretion whether to file papers, and police referral to social agencies, to highly formal extra-judicial probation programs, replete with review board and elaborate statistical recordkeeping. Programs can be instituted by the court, the probation department, the district or county attorney's office, sheriff's department, by any combination of these, or by a special agency. (See Q8, #10; and Q9, #14.)

No descriptive data on diversion practices were collected. The list on page 207 notes 44 counties in which offenders are diverted in one fashion or another, according to the survey. Note that diversion alternatives may be available to other counties not listed but embraced by a probation department officed in the county listed. Additionally, sheriffs for 17 counties not listed, in which neither a probation department nor local police chiefs noted a diversion program, stated a program does function. We can only conclude from such disparities as these that: 1) some police departments and some sheriff's offices independently divert offenders, even where no formal program as such functions; and 2) that other police and/or sheriffs are not aware of programs where they do function.

However the count is interpreted, diversion is consciously practiced in no more than 30% (75) of the state's counties. At least one reason for the limited development of such alternatives around the state is easily apparent: formal, conventional systems for coping with offenders (such as probation) have required cultivation, and the means for developing and implementing programmatic alternatives on a large scale often could not be spared. Yet the rewards of diversion for the probation system in Texas, which has seen a 30% growth over five years, or for the district court system, which has seen a 500-600% growth over the same time, would be relief from steadily accumulating pressures.

Wariness about diversion's efficacy in really reducing anybody's work load is, however, a factor probably retarding development of diversion programs. For instance, many individuals believe that some supervision should be required of an offender while "in a diversion status." Seventy-five percent of the probation officers surveyed felt so; 88% of the district judges, 79% of the prosecuting attorneys and 50% of the criminal defense attorneys surveyed agreed. (Q1, #67; Q2, #13; Q5, #19; and Q6, #22.) At the same time, more than one-half the probation departments felt they should "confine their supervision to only those persons placed on probation" (Q1, #61), most of them reflecting that they already have more than enough on their hands already. While not anxious to extend supervision, some probation departments nonetheless would support (by a 55% majority) the extension of authority and manpower to "manage" all forms of diversion, from arrest to conviction. Similarly, a preponderance of prosecuting and defense attorneys would locate administration of diversion programs with the probation departments. Others prefer that this remain the function of an independent entity.

Certainly a diversion program requires an investment of manpower, money and time. Most judges, attorneys and prosecutors polled would prefer to see offenders diverted as a result of a cooperative agreement between the court, probation department, county or district attorney, and even counsel. This arrangement has been instituted successfully

in the form of the extra-judicial probation review board, mentioned earlier, consisting of representatives from each of these four groups.

The decision to divert should likewise be informed by an investigation into the defendant's background, with testing if needed, or at least there was overwhelming support for this by district judges, probation officers, and prosecutors. (Q1, #65; Q2, #11; Q5, #22.)

It seems, then, that formal diversion is contemplated by many as a process that would closely parallel probation, without the latter's administrative restrictions and/or cost, and averting trial or conviction for a greater number of defendants. More will be said in Volume Two about formal and informal diversion, its success in communities around the nation, and its potential here in Texas.

LIST 3

COUNTIES IN WHICH DIVERSION PROGRAMS OPERATE

1. Angelina	(Q1)	23. Hale	(Q1, Q9)
2. Bell	(Q8, Q9)	24. Hardin	(Q1, Q9)
3. Bexar	(Q8, Q9)	25. Harris	(Q8, Q9)
4. Bowie	(Q1, Q8)	26. Hidalgo	(Q8)
5. Bosque	(Q8)	27. Kleberg	(Q8, Q9)
6. Brazoria	(Q8, Q9)	28. Lamar	(Q8, Q9)
7. Brewster	(Q1, Q8, Q9)	29. Limestone	(Q1, Q9)
8. Brown	(Q1, Q8, Q9)	30. McLennan	(Q8)
9. Cochran	(Q1)	31. Medina	(Q1, Q9)
10. Comanche	(Q8, Q9)	32. Montgomery	(Q1, Q8)
11. Coryell	(Q8)	33. Nolan	(Q8, Q9)
12. Dallas	(Q8)	34. Orange	(Q1, Q8)
13. Dickens	(Q8)	35. Parker	(Q1, Q8)
14. El Paso	(Q8, Q9)	36. Potter	(Q1)
15. Fayette	(Q8)	37. San Patricio	(Q8, Q9)
16. Ft. Bend	(Q1, Q8)	38. Smith	(Q1, Q8, Q9)
17. Galveston	(Q8, Q9)	39. Swisher	(Q8, Q9)
18. Garza	(Q1)	40. Tarrant	(Q8)
19. Gray	(Q1, Q8)	41. Titus	(Q1, Q8)
20. Grayson	(Q8)	42. Walker	(Q1, Q9)
21. Gregg	(Q8, Q9)	43. Wichita	(Q1, Q8, Q9)
22. Grimes	(Q1, Q9)	44. Wood	(Q1, Q9)

Q1--indicates diversion program is operated by the probation department (Q1, #62).

Q8--indicates police chief(s) aware that diversion program functions in their county (Q8, #10).

Q9--indicates sheriff aware that diversion program functions in his county (Q9, #14).

C. PRETRIAL RELEASE PROGRAMS

Pretrial release alternatives have been explored and developed around the country, and to some extent around this state, in response to crowded jails, a pinched economy, and a hard look at existing bail practices. Pretrial release is a child of the 1960's, gaining popular attention only after studies showed the need and the Manhattan Bail Project showed a way. The concept established itself with the Federal Bail Reform Act of 1966 and with national conferences promoting exchange and publication of ideas (the first was convened in 1964). A National Association of Pretrial Services Agencies has broadened the original concept and domain intended.

That pretrial services and release options are necessary to Texas communities is clear to anyone who has looked at daily intake reports for city and county jails. The jail situation has been so severe over the past five years in large communities that court suits have tried to effect remedies in over 30 counties, Bexar, Dallas, Harris and Travis among them.

Additionally, merited public attention has been directed towards abuses in the commercial bail bond system. In 1973 several reforms were legislated, the most important licensing and controlling commercial bail bondsmen in communities of over 125,000 (Article 2372 p-3, Vernon's Ann. Civil Statutes).

The number of commercial bondsmen operating in Texas has dropped somewhat as a result of this move. No official count is available but a Harris County bondsman has estimated that 250 function around the state (around 50 bondsmen are licensed in Harris County alone).

Another 1973 act gave individual counties and judicial districts authority to establish personal bond offices with the approval of commissioners courts. Article 2372p-2, Texas Annotated Civil Statutes, is here reprinted.

Art. 2372p—2. Personal bond offices

Section 1. Any county, or any judicial district with jurisdiction in more than one county, with the approval of the commissioners court of each county in the district, may establish a personal bond office to gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond and report its findings to the court before which the case is pending.

Sec. 2. (a) The commissioners court of a county that establishes the office, or the district and county judges of a judicial district that establishes the office, may employ a director of the office.

(b) The director may employ the staff authorized by the commissioners court of the county or the commissioners courts of each county in the judicial district if the judicial district includes more than one county.

Sec. 3. If a judicial district establishes the office, each county in the district shall pay its pro rata share of the costs of administering the office according to its population in the last preceding federal census.

Sec. 4. (a) If a court releases an accused on personal bond on a personal bond office's recommendation, the court shall assess a personal bond fee of \$10 or of three percent of the amount of the bail fixed for the accused, whichever is greater. The court may waive the fee or assess a lesser fee if good cause is shown.

(b) Fees collected under this Act may be used solely to defray expenses of the personal bond office, including defraying the expenses of extradition.

(c) Fees collected under this Act shall be deposited in the county treasury, unless the office serves more than one county in which event the fees shall be apportioned to each county in the district according to each county's pro rata share of the costs of the office.

Acts 1973, 63rd Leg., p. 788, ch. 352, eff. June 12, 1973.

30 Tex. Stats.—7
1974 P.P.

In Texas today it is difficult to say how many such formal programs have been established. Six function in our large metropolitan areas: Dallas, El Paso, Bexar, Harris, Tarrant and Travis counties. We asked probation officers, sheriffs, district attorneys and justices of the peace whether a pretrial release or personal bond program functioned in their jurisdictions. Responses from the four parties were often inconsistent. Nineteen probation departments noted a program in their counties; justices of the peace in 48 counties said they had a personal bond release program; 83 county sheriffs and 54 district attorneys felt they had something answering this description. Those counties in which at least two of these four groups concurred are listed on page 214; there are 35 of them. In only 10 or 11 of the most populous counties was agreement complete, and it is in these counties that formal programs appear to function.

The disparities in responses can be attributed to differing definitions of what constitutes a personal bond program. One or two probation departments have informally seen a few cases through the personal bond process. Many sheriffs offer the PR bond to a well-known or trusted defendant, also informally.

Thirteen of the 19 programs identified by probation chiefs were rated as "good," three as "mediocre," and two as "poor." (Q1, #69.) Most programs are administered as

separate agencies, answerable to the court or county in varying ways (Q1, #70). We asked district judges, J.P.'s, prosecutors, defense attorneys and sheriffs who should administer a personal bond or pretrial release program, but no accord or consensus emerged. The probation department and sheriff's office were mentioned most often, but judges and justices preferred authority in the hands of the court. (Q2, #37; Q11, #3; Q5, #30; Q6, #33; and Q9, #13.)

Some programs have swift, efficient access to likely candidates for interview and consideration. More programs do not, however. Consequently, the percentages of likely candidates for whom personal bond release is considered or granted vary enormously from program to program (Q1, #71). Support of local jail staff and judiciary is crucial to the effectiveness of these programs.

The concept of personal bond and release on recognizance has gained grounds and support around the state. When asked whether a program should be established where one does not already exist, 79% of the probation officers responding said "yes," and 70% of the prosecutors with an opinion on this subject would approve (Q1, #74; Q5, #28). District judges were asked whether they feel pretrial release can be "an effective method of correction/rehabilitation;" 48% replied "yes, in some cases," and another 25% replied "yes, in a few cases." (Q2, #35.) Perhaps most significantly, 66% of the justices of the peace who do not now have a personal bond program in their county do favor its establishment.

They comment that the program would simplify present bail bond conditions and would be inherently fairer.

Our surveys sought a measurement of satisfaction with the present bond system in Texas by asking district and county attorneys, defense attorneys and J.P.'s about the need for its reform. Eighty-two percent of the D.A.'s and C.A.'s would favor reform legislation; 79% of the defense attorneys also see the need; and 72% of the J.P.'s are favorable. (Q5, #31; Q6, #34; Q11, #5.) Different parties see this reform as taking different directions, however. The range of suggestions elicited from J.P.'s is representative:

Reform is needed to save the county and the citizen money and jail space and to administer fairer justice to the accused. But there is great diversity in feelings about the directions reform should take. PR bond seen as "one of the best tools available" to handle non-violent offenders.

Commercial bond is discriminatory, expensive, and unnecessary in the majority of cases; the relationship between jailers and bondsmen needs to be severed or altered; bond approval fees should be prohibited; and bail bond approval should be taken away from the sheriff's office and placed with the judiciary. A cash deposit to the court suffices.

A thorough check should be prepared before release; habitual criminals should not have access to PR bond.

The State should supervise bonding practices or provide guidelines.

Bond forfeiture procedures should be simplified. It should be harder to jump bail. Higher bonds should be used in all cases. A person committing a felony should not be released again.

The present law works well in the opinion of some.

(Q11, #5)

These various suggestions will be examined and treated at greater length in Volume Two of the Master Plan, where pretrial services will be analyzed for recommended state and local action.

LIST 4

COMMUNITIES IN WHICH PRETRIAL RELEASE PROGRAMS OPERATE

Bee County

Bell County

Bexar County

Brazoria County

Burleson County

Cameron County

Comanche County

Dallas County

Ector County

El Paso County

Erath County

Galveston County

Hale County

Harris County

Hutchinson County

Jefferson County

Johnson County

Liberty County

Live Oak County

Llano County

Madison County

Mason County

Midland County

Navarro County

Orange County

Palo Pinto County

Potter County

Randall County

San Patricio County

Scurry County

Travis County

Upshur County

Walker County

Wichita County

Wood County

D. WORK RELEASE PROGRAMS

This survey summary will give only a cursory view of jail work release programs. Work release is an alternative function which, like diversion and pretrial services, may serve a rehabilitative purpose. Programs in local correctional facilities allow inmates to continue supporting their families. By keeping the latter off welfare roles the community realizes a savings. Inmates use their time constructively, and to this extent do not lose their franchise or dignity as citizens. At the same time, inmates allowed the privilege of work release, by serving their time on weekends or after work hours, feel the full sanction against their offense. Local corrections facilities are far more suited to work release than are the huge rurally-located state institutions.

Although such programs are properly the domain of another component part of the Corrections Master Plan, and of the recently organized Jail Standards Commission, this project asked two general questions of police and sheriffs. Fifteen chiefs of police (5% of the 275 participating in the survey) state they operate a limited work release program from their city jails. Twenty-four sheriffs (16% of the 154 surveyed) allow work release from their county facilities. These are listed by county on page 217.

There is no statutory framework at present to encourage jail administrators to release appropriate inmates under

controlled conditions for work. Consequently such administrators assume unlimited liability for anything that might happen to the inmate, or as a result of the inmate's actions.

Brief descriptions of programs reveal that work release is administered informally. Inmates often work within the jail, or for city or county departments. Wages earned may be applied toward fines. Usually consent of the district attorney and/or the court is obtained. One county takes trustees out on work detail, supervised by a deputy.

Both police and sheriffs feel their efforts to be deserved and well-rewarded. Manpower, however, seems to be a major impediment to more thorough or extensive work release. No one can question but that many local facilities function with extremely limited means, and are crowded beyond capacity. Efforts to improve and meet standards for physical plants will no doubt assist efforts to improve programming for local detention/correction institutions.

A majority of police chiefs and sheriffs (two-thirds of those expressing an opinion) already approve the concept of work release and would favor specific legislation supporting it (see Q8, #14 & Q9, #10). Legislation might designate authority and set standards for the operation and control of work release. Recommendations for state action and further comment on successful practices will be found in the second volume of this plan.

LIST 5

County Jails With Work Release Programs
(as reported by sheriffs: Q9, #18)

Aransas	Jim Wells
Bastrop +	Kleberg +
Bell +	Loving
Brewster +	Mitchell
Brown +	Moore
Burleson +	Oldham
Callahan	Potter
Deaf Smith	Scurry
Hale +	Travis +
Hansford	Trinity
Hutchinson +	Webb
Jackson	Wichita +

+ These sheriffs also report pretrial release and diversion programs.

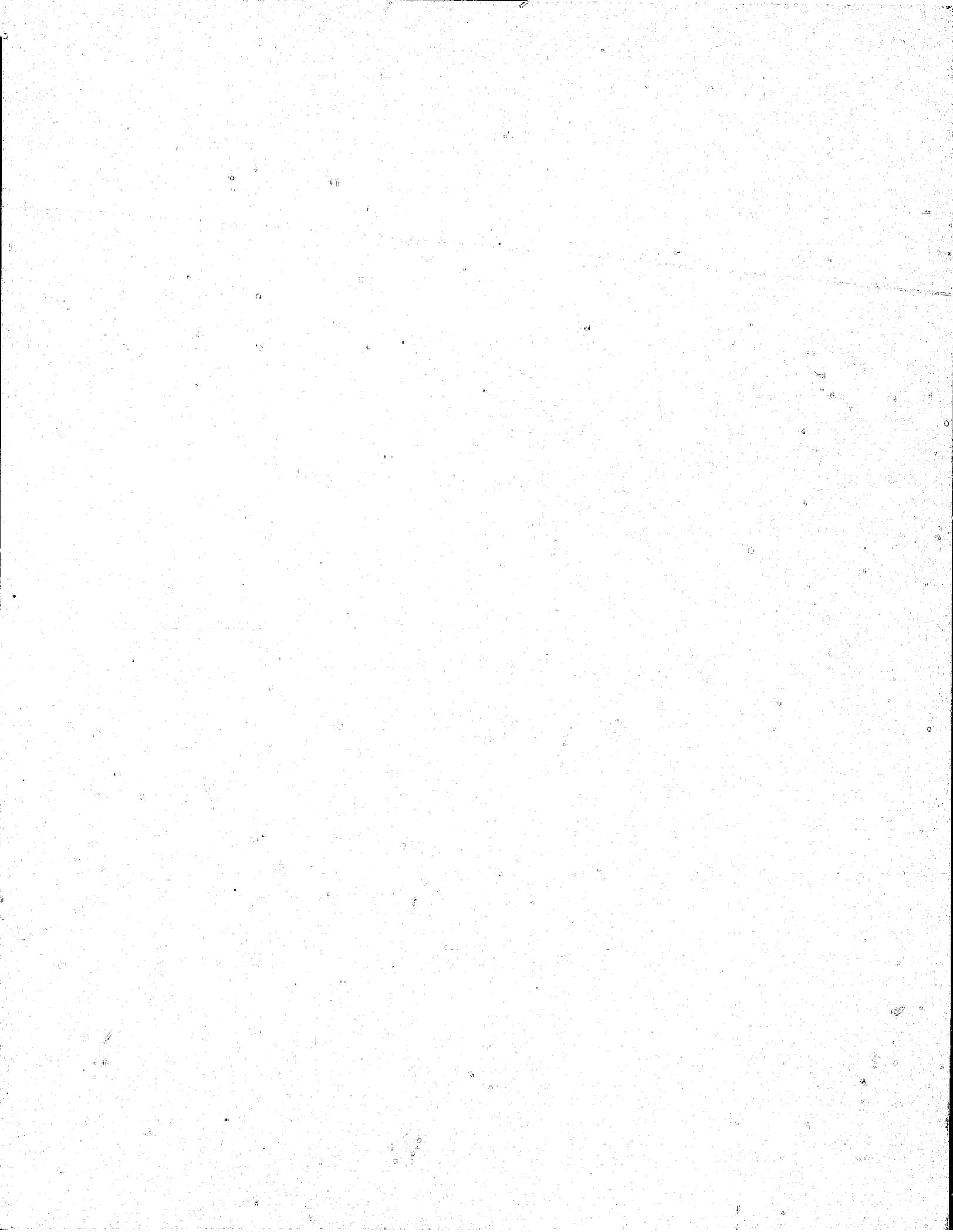
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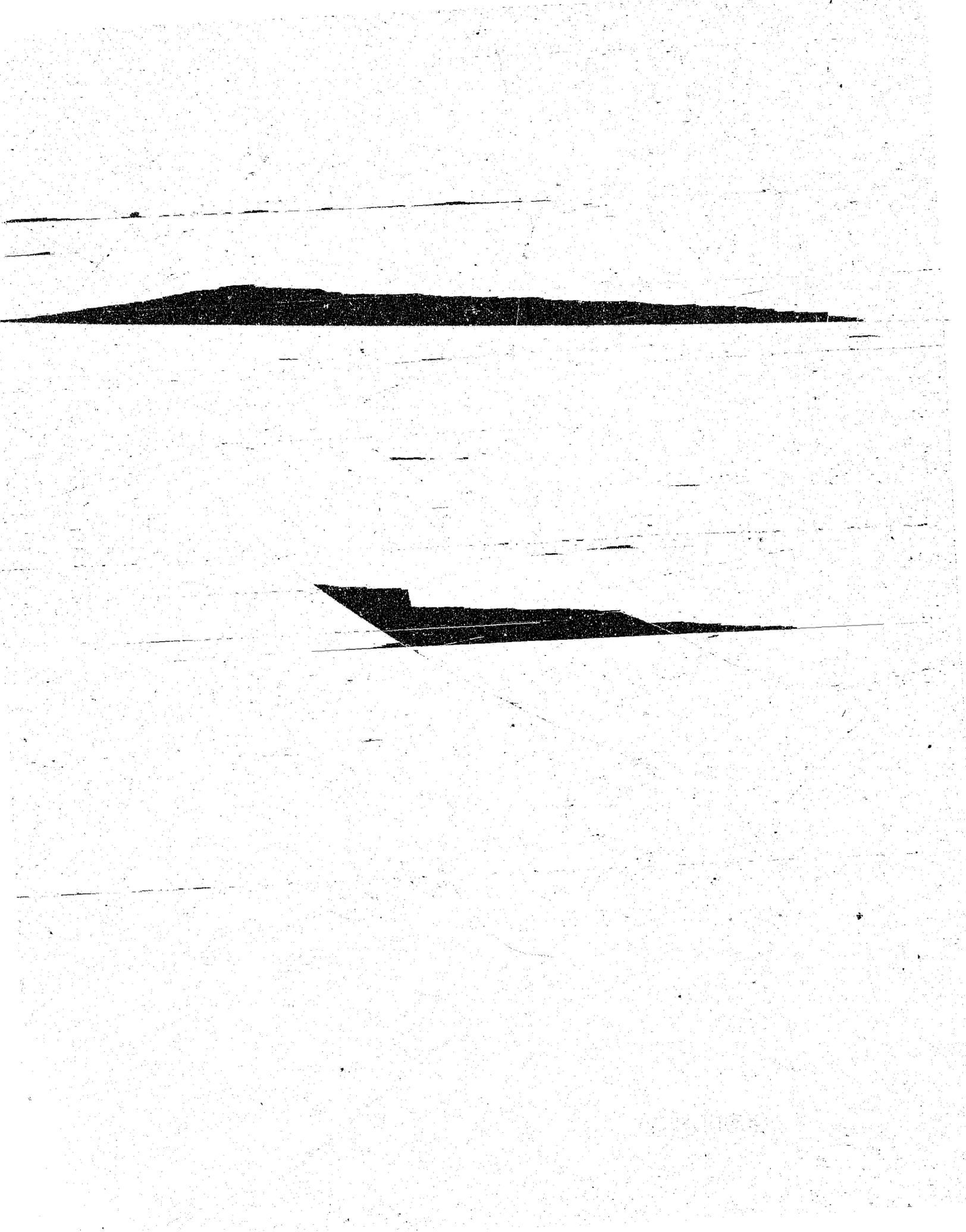
City Jails With Work Release Programs
(as reported by chiefs of police: Q8, #14)

Brown Co. - Bangs	Hale Co. - Hale Center
Dallas Co. - Carrollton	Hall Co. - Memphis
Dawson Co. - La Mesa	Lamb Co. - Littlefield
Dewitt Co. - Yorktown	Lavaca Co. - Shiner
Dickens Co. - Spur	Tarrant Co. - Azle, Benbrook, Samson Park Village
Ellis Co. - Ferris	Titus Co. - Mt. Pleasant
Floyd Co. - Floydada	

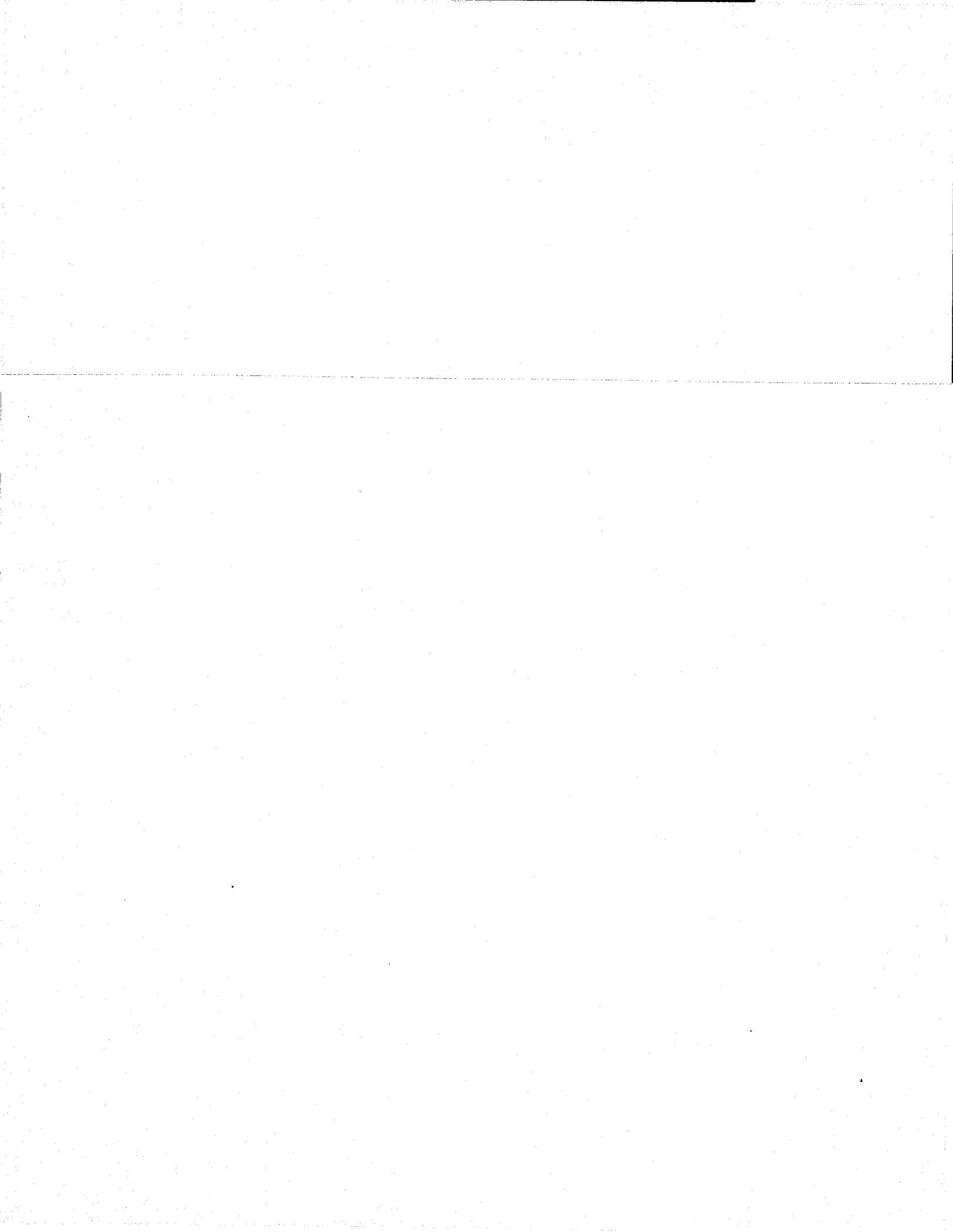
FOOTNOTES TO CHAPTER FIVE

1. Texas Judicial Council data printout for 48th Annual Report, (Austin, 1977).
2. Texas Judicial Council Annual Reports, 1971-1976, (Austin).
3. Ibid.
4. N.C.C.D., "Correction in the United States: A Survey for the President's Commission on Law Enforcement and Administration of Justice," Crime and Delinquency, 13, No. 1, (January 1967), p.170.
5. Report to the Congress, State and County Probation: Systems in Crisis (Washington, D.C., 1976), p. 7.
6. Ibid.
7. Criminal Justice Division of the Governor's Office, 1976 Criminal Justice Plan for Texas (Austin, 1976), p. 221.
8. Article 42.12, Section 31, Vernon's Annotated Code of Criminal Procedure.
9. Almon Lloyd Havenstwrite, A Proposed State Administered Adult Probation of Parole System in Texas (SHSU, Huntsville, 1969), p. 78.
10. Texas Probation Training Project. An Overview of Probation Manpower and Training Needs (SHSU, Huntsville, 1974). p. 3.
11. Ibid., p. 22.
12. Program Evaluation of The West Texas Regional Adult Probation Department by John Galvin, American Justice Institute of April, 1975.
13. Council of Economic Advisors, Economic Indicators (U.S. Gov't. Printing Office, Washington, D.C.,) March, 1977.
14. Subcommittee on Corrections of the Joint Advisory Committee on Government Operations. Report with Recommendations to the Governor of Texas and Members of the 65th Texas Legislature, (Austin), p. 20.
15. Ibid., p. 21.
16. Appropriations Bill, 64th Legislature, 1975.









132 Distributed

125 Returned Completed (97% return rate)

Introduction

Questionnaire One was distributed by a task force of probation officers to every identifiable probation office in the state. Only one questionnaire was filled out for each department. Seven questionnaires were not completed or received in time for analysis. Most questionnaires were completed between May and September of 1976. Survey results represent 235 counties.

The instrument gathers factual data and opinions about the size, staff, operation, case load and court services of probation departments. Financing and money collections, community resources, and law enforcement services are also studied.

Interpreting Survey Results

Provided here are tabulations and frequencies of responses to all questions, as they were asked on the form. The percentage of total possible responses is given first and is followed by the number of departments giving that response, in parentheses. Throughout, "NA" indicates that no response (or an equivocal response) was given.

A second percentage is to be found underneath the first when more than 20% of the probation departments did not respond to a given question. This figure is adjusted to represent the percentage of all those actually answering the question, and is set off by the figure @ (e.g., @37%).

For example, question #69 asks "If a Personal Recognizance program exists in this jurisdiction, how effective is it?"

Responses were:

<u>10% (13)</u> @72%	Good	<u>2% (2)</u> @11%	Poor
<u>2% (3)</u> @17%	Mediocre	-- --	Not working at all
		<u>86% (107)</u>	NA

Only 18 persons responded, (since the number of personal bond programs statewide is small). The adjusted figures show that 72%, almost three-fourths, of the programs are thought to be "good," while 17% are considered "mediocre," and 11% are considered "poor."

Comments were invited for many questions, and these often clarify or qualify the numerical response. Staff have digested these commentaries and summarized their general drift, and/or differences of opinion. These summaries are typed in italicized script below each applicable question.

**SERVICES RENDERED BY ADULT PROBATION DEPARTMENT
TO COUNTY COURTS**

INSTRUCTIONS: On the top line, fill in the name of the county or counties within your jurisdiction. On the second line, fill in the number of each county court in each county. On the rest of the form, place a check mark in every column which describes the court or a service rendered to that court.

NAME OF COUNTY(IES)																				
COUNTY COURT NUMBER																				
KIND OF COURT																				
Criminal																				
Civil																				
Juvenile																				
Administrative																				
Probate																				
INVESTIGATIVE FORMS COMPLETED																				
Presentence Investigation	Long Form																			
	Short Form																			
Postsentence Investigation	Long Form																			
	Short Form																			
MONIES COLLECTED																				
Probation Fees																				
Court Costs																				
Fines																				
Court Ordered Restitution																				
Non-Court Ordered Restitution																				
Court Ordered Attorney's Fees																				
WARRANTS SERVED																				
PRISONERS TRANSPORTED																				
JUVENILE COURTS SERVED																				
Administration Combined																				
Casework Combined																				

Probation Department Staff Statewide

1. Please complete the following information regarding your departmental staff.

STAFF POSITION	TOTAL NUMBER	NUMBER MALES			NUMBER FEMALES		
		BLACK	MEX. AMER.	ANGLO	BLACK	MEX. AMER.	ANGLO
Chief	115	--	10	96	--	1	4
Assistant Chief	20	--	4	15	--	--	1
Administrative Assistants	16	--	--	8	1	3	4
Supervisors	77	4	6	45	2	2	14
Probation Officers	318	23	39	164	9	4	76
TOTAL PROFESSIONAL STAFF	546	27	59	328	12	10	99
Paraprofessional Staff	39	4	4	8	6	5	12
Administrative: Secretarial	179	--	1	7	13	48	109
Clerical	46	--	--	--	7	9	30
Bookkeepers	32	--	--	1	1	7	23
Technicians: Lab	3	--	--	2	--	--	1
Computer	1	--	--	1	--	--	--
Interns (as of 5/1/76)	50	4	3	17	1	3	22
Volunteers	509	29	27	211	37	22	181
Others*	49	1	5	15	6	12	7

SALARIED STAFF (TOTALS) 895 32 69 362 45 91 281
(excludes interns & volunteers)

ALL STAFF TOTALS 1454 65 99 590 83 116 484

*Several community resource developers, volunteer coordinators, pre-sentence investigators, a training director, alcohol education officer, and pretrial release personnel are cited. Some are paid with temporary funds through such programs as CETA.

N.B.: The ethnic information provided was not always complete, and hence the "Total Number" is sometimes larger than sums derived from racial/sex breakdowns.

2. Does your department have any staff who do not meet the minimum requirements of Section 10, Article 42.12, CCP but who are:

a. doing the work of a probation officer?

15% (19) Yes* 80% (101) No 5% (6) NA

b. doing the work of a probation chief?

6% (8) Yes* 90% (113) No 4% (5) NA

*If yes, consider those staff as professional personnel for the remainder of this questionnaire.

3. What is the tenure of all full-time probation officers on your staff who meet the requirements of Section 10, Article 42.12, CCP? (Fill in the total number of staff per the following year spans.) Do not include chief even if answers will be none.

Total - 113: 0-2 years T - 67: 5-10 years

T - 196: 2-5 years* (median range of tenure) T - 19: more than 10 years

4. What is the tenure of all full-time probation officers on your staff who do not meet the requirements of Section 10, Article 42.12, CCP? Do not include chief even if answer will be none.

Total - 15: 0-2 years T - 3: 5-10 years

T - 14: 3-5 years T - 4: more than 10 years

5. Please complete the following information concerning the ages of all professional staff. Do not include chief even if answer will be none.

<u>AGE SPAN</u>	<u>TOTAL NUMBER MALE (352)</u>	<u>TOTAL NUMBER FEMALE (117)</u>
18-22 Years	2	3
23-25	34	18
26-30	127	58*
31-40	84*	24
41-50	30	10
51-60	32	4
61-65	9	--
Over 65	34	--

*Median Age Span

6. Complete the following information concerning the educational background of all professional staff. Do not include chief even if answer will be none.

<u>EDUCATIONAL LEVEL</u>	<u>TOTAL NUMBER MALE (401)</u>	<u>TOTAL NUMBER FEMALE (137)</u>
1-3 yrs. of high school	--	--
High school graduate	8	11
1 yr. of college	16	7
2 yrs. of college	17	8
3 yrs. of college	12	4
College degree	182	67
Some Graduate Work	119	31
Master's degree	41	9
Other:	(6)	--

7. Complete the following information concerning the ages of educational background of paraprofessional staff.

<u>AGE SPAN</u>	<u>TOTAL NUMBER MALES (13)</u>	<u>TOTAL NUMBER FEMALES (26)</u>
18-22 yrs.	--	5
23-25	3	8
26-30	3	5
31-40	5	7
41-50	1	1
51-60	--	--
61-65	1	--
over 65	--	--

<u>EDUCATION</u>	<u>TOTAL NUMBER MALES (13)</u>	<u>TOTAL NUMBER FEMALES (23)</u>
1-3 yrs. H.S.	--	--
H.S. graduate	2	4
1 yr. college	4	8
2 yrs. college	--	2
3 yrs. college	4	7
College degree	3	7
Graduate work	--	1
Master's	1	--

Q1-000
Probation Officers

8. Complete the following information concerning the department chief:
- a. Age: 45 (mean average)
 - b. Sex: 96% (111) Male 3% (4) Female
 - c. Ethnic origin: Black 2% (2) Mex.Amer. 10% (11) Anglo 89% (102)
 - d. Educational level: @ 15 years (3 years college)
 - e. Years of experience in probation: 5 yrs. median (7 yrs. mean avg.)
 - f. Years as chief: 4 years median (5 yrs. mean avg.)

9. Complete the following information concerning the department's officer supervisory staff:

- a. Total number working at officer supervisory level: 68
- b. Total number officially classified as officer supervisors: 66

10. Do officer supervisors have additional direct responsibility for:

<u>14% (18)</u> Court service	<u>12% (15)</u> Officer training
<u>14% (18)</u> Case work	<u>7% (9)</u> Self-development training
<u>9% (12)</u> Community resources	<u>2% (3)</u> Volunteer coordination
<u>10% (13)</u> Investigation of reported violations	<u>9% (12)</u> Intern supervision
<u>11% (14)</u> Presentence investigations	<u>2% (3)</u> Other:
<u>12% (15)</u> Processing new cases	

11. How many full-time probation officers left the department in:

1974? 64 (range 1-10)
 1975? 84 (range 1-18)
 1976 (through 5-1-76)? 35 (range 1-6) Total: 183

12. What is the most frequent reason for the loss of employees?

The availability of jobs with a better salary and/or opportunity for advancement; pay for probation work is not commensurate with long hours and responsibility.

Q1-000
 Probation Officers

13. How many probation officers in your department are assigned the following specific responsibilities, as opposed to performing general multiple services:

<u>26</u>	Court services (5 departments)
<u>33</u>	Presentence services (6 departments)
<u>32</u>	Reported violation investigative services (3 departments)
<u>47</u>	Case work supervision (5 departments)
<u>73</u>	Volunteer supervision (5 departments)
<u>28</u>	Community resources (4 departments)
<u>5</u>	Staff development (3 departments)
<u>4</u>	Other: (3 departments)

14. Please estimate the approximate number of hours spent per week by a probation officer in performing each of the following specific tasks:

<u>DUTIES</u>	<u>NUMBER OF HOURS PER WEEK</u>
Direct case supervision	<u>24</u> mean average
Travel	<u>7</u> " "
Records keeping (recording)	<u>8</u> " "
Volunteer supervision/coordination	<u>4</u> " "
Resource work*	<u>5</u> " "
Other**	<u>5</u> " "
TOTAL HOURS PER WEEK	<u>53</u> mean average

*For example, health examinations, employment contacts; indirect counseling contacts (family, etc.) transportation, etc.

**List examples:

Conducting alcohol (DWI) classes, law enforcement training or presentence investigations; community relations work; employer contacts; and public speaking.

15. Please estimate the approximate number of hours spent per week by the department chief performing each of the following specific tasks:

<u>DUTIES</u>	<u>NUMBER OF HOURS PER WEEK</u>
Administration/court coordination	<u>9</u> mean average
Volunteer coordination/development	<u>3</u> " "
Personnel staffing	<u>3</u> " "
Personnel supervision	<u>6</u> " "
Client supervision/case work	<u>19</u> " "
Travel	<u>7</u> " "
Court Services as a probation officer	<u>5</u> " "
Community resource development	<u>3</u> " "
Public relations work	<u>3</u> " "
Other*	<u>3</u> " "
TOTAL HOURS PER WEEK	<u>61</u> mean average

(contd. next page)

Q1-000
Probation Officers

(15) Contd.

*List activities:

Bookkeeping, public speaking, assisting law enforcement agencies, consulting and professional association work.

16. Estimate the man hours lost in travel in your department compared to additional cases a probation officer could supervise.

<u>8% (10)</u> 1 hour--1 case	<u>8% (10)</u> 1 hour--4 cases
@12%	@12%
<u>25% (32)</u> 1 hour--2 cases	<u>5% (6)</u> 1 hour--5 cases
@37	@7%
<u>21% (27)</u> 1 hour--3 cases	<u>1% (1)</u> Other:
@31%	@1%
	<u>32% (40)</u> NA

17. Does the department have a written policy on requirements for:

a. Probation officers?

25% (31) Yes* 68% (86) No 7% (9) NA

b. Supervisory level staff?

12% (15) Yes* 70% (88) No 18% (23) NA

c. Paraprofessional staff?

8% (10) Yes* 70% (88) No 22% (28) NA
@10% @90%

18. What is the minimum education level required by the department for beginning:

a. Paraprofessionals

1-3 yrs. of high school
 High school graduate
 * 1 yr. of college
 2 yrs. or more of college
 Other:

b. Probation Officers

High school graduate
 1 yr. of college
 2 yrs. of college
 * College degree
 Other:

c. Supervisor of probation officers

High school graduate
 1 yrs. of college
 2 yrs. of college
 3 yrs. of college
 * College degree
 Other:

d. Clerical

1-3 yrs. of high school
 * High school graduate
 1 yr. or more of college
 6 mo. or more of business school
 Other:

e. Volunteers

9th grade or above
 1-2 yrs. of high school
 High school graduate
 1 yrs. or more of college
 Other:

f. Specialists: NA

Explain:

(*Median of responses falls here)

19. What is the department's minimum experience requirement for beginning:

a. Paraprofessionals

- None
- * Up to 1 yr.
- 1-2 yrs.
- Other

b. Probation officers

- None
- * Up to 1 yr.
- 1-2 yrs.
- Other:

c. Supervisors

- None
- Up to 1 yrs.
- 1-2 yrs.
- * More than 2 yrs.
- Other:

d. Specialists: NA
Explain:

(*Median of responses falls here)

20. Does the department have an established policy concerning continuing education opportunities for full-time probation officers?

30% (38) Yes 63% (79) No 7% (9) NA

Is this a written policy?

2% (3) Yes* 44% (55) No** 54% (68) NA
@5% @95%

*If yes, please attach copy.

**Comments: *Continuing Education is variously tolerated, permitted, or actively encouraged, at least as far as special workshops go. A few departments manage an allowance for transportation or registration fees. At least one department allows its personnel to take one college course each semester on office hours.*

21. Do you approve of the requirements of Section 10, Article 42.12 CCP concerning the minimum qualifications for probation officers?

78% (98) Yes 16% (20) No 6% (8) NA

Comments: *Those who do not approve of the statutory requirements hold diverse opinions about the need for a college degree. In rural areas they are difficult to meet. To the majority of probation officers, however, professional standards seem crucial.*

Q1-000
Probation Officers

22. What level of education do you feel a chief probation officer should have?

- High school diploma
- 1-2 yrs. of college
- 3 yrs. of college
- * College degree
- Other

(*Median of responses falls here)

23. Do you believe a chief probation officer should be required to have experience as a probation officer?

86% (109) Yes 9% (11) No 5% (6) NA

24. Do you believe a chief probation officer should be required to have administrative experience?

75% (95) Yes* 18% (23) No 6% (8) NA

*Is administrative experience more important than experience in probation work?

11% (14) Yes 78% (98) No 11% (14) NA

25. Should minimum salaries of all professional level personnel be standardized?

75% (94) Yes 18% (23) No 7% (9) NA

26. Should minimum salaries of all paraprofessional levels be standardized?

55% (69) Yes 29% (36) No 17% (21) NA

27. Should a standard job description be published for all levels of personnel within the probation system?

69% (87) Yes 23% (29) No 8% (10) NA

Comments: *Standardized job descriptions should be general and basic enough for adaptation to different department structures, sizes, geography, etc.. Some respondents would like to see detailed descriptions, however.*

28. Should Section 10, Article 42.12, CCP be amended to include qualifications for all levels of probation personnel?

50% (63) Yes 39% (49) No 11% (14) NA

Q1-000
Probation Officers

29. Has this department ever used interns?

50% (63) Yes* 39% (49) No** 11% (14) NA

- *a. How many during the past five years? Total: 400 Range: 1-59
b. How many were paid through the department? Total: 80 Range: 1-15
c. How many were later hired by the department? Total: 40 Range: 1-8
d. How many later went into other corrections work (if known)? Total: 71 Range: 1-6

**a. Would you use interns if they were available at no cost to the department?

71% (89) Yes 11% (14) No 18% (23) NA

- b. How many per year could you use? Total: 644 Range: 1-210
Mean - 8
Median - 2

II. CASE WORK SUPERVISION

30. Does the chief carry a case load?

72% (91) Yes 13% (17) No 14% (18) NA

31. What is the chief's average case load?

District Court:

Total: 9585 (91 responses)
Mean Avg.: 105
Median: 72
Range: 0-500

County Court:

Total: 7546 (76 responses)
Mean Avg.: 99
Median: 75
Range: 0-450

32. What is the average case work load for each full-time probation officer who performs case work supervision?

a. District court:

Felony

Mean Avg.: 106 (89 responses)
Median: 97
Range: 1-466

b. County Court

Mean Avg.: 68 (77 responses)
Median: 100
Range: 2-999

Misdemeanor

Mean Avg.: 68 (43 responses)
Median: 20
Range: 1-500

Q1-000
Probation Officers

33. What do you consider to be a manageable case load for a probation officer?

District court:

County court:

Mean Avg.: 69 (105 responses)
 Median: 59
 Range: 20-600

Mean Avg: 88 (96 responses)
 Median: 73
 Range: 5-650

34. What was the total department district court load as of 5-1-76?
 (Do not include transferred in cases.)

Felony

Misdemeanor

Total: 47,800
 Mean Avg.:
 Median:
 Range: 0 - 19,194

Total: 2,800
 Mean Avg:
 Median:
 Range: 0 - 1,422

35. Does this department handle county court misdemeanor cases?

86% (109) Yes

8% (10) No*

6% (7) NA

*Comments: Commentators indicate that some county courts have a P.O. assigned for misdemeanor cases; others who handle misdemeanor probation do so on a very limited basis due to heavy felony case loads and/or may not make misdemeanor probationers report.

36. What was the total department county court case load as of 5-1-76?
 (Do not include transferred in cases.)

Total: 39,800
 Mean Avg.:
 Median:
 Range: 0-8245

37. Would you favor the use of a simple standardized form to be completed monthly on the department's case load activity, in order to maintain a profile of the current status of probation in Texas?

73% (92) Yes

18% (23) No

9% (11) NA

38. Does your department currently maintain such records?

67% (85) Yes*

23% (29) No

9% (12) NA

*Please attach a copy of the form used and/or monthly, quarterly, etc., statistical report.

Q1-000
 Probation Officers

39. Does this department practice the transfer of cases to other jurisdictions for physical supervision?

13% (16) Yes, without exception

63% (79) Yes, in most cases

11% (14) Yes, in rare cases

6% (8) No*

7% (9) NA

Comments: Some courts prefer to retain supervision, even if this must be done by mail; others may weigh the probationer's need for close supervision in deciding whether to transfer. At least one P.O. indicates a dislike of the Interstate Compact procedure. In sum, there is no continuity in "out of county/jurisdiction" supervision.

40. Is a formal request to the court for transfer required of the probationer before it is granted?

a. District court:

25% (31) Yes 63% (80) No 12% (15) NA

b. County court:

13% (16) Yes 72% (91) No 15% (19) NA

41. Is acceptance required before a transfer request is granted?

38% (48) Yes 54% (68) No 8% (10) NA

42. Are court orders concerning transfer amended by defendant application or department application?

a. District court

9% (12) Defendant
@14%
44% (56) Department
@67%
13% (16) Either
@19%
34% (42) NA

b. County court

6% (8) Defendant
@10%
44% (55) Department
@70%
13% (16) Either
@20%
37% (47) NA

(47 Contd)

*If so, when?

a. District court

10% (12) At transfer for supervision

29% (36) When probationer is alleged to be in violation
of probation

2% (3) Either

59% (73) NA

b. County court

6% (7) At transfer for supervision

3% (4) When probationer is alleged to be in violation
of probation

2% (3) Either

89% (110) NA

48. Should there be a standard system for intrastate jurisdiction transfer?

76% (94) Yes

14% (17) No

10% (13) NA

Comments: *A standard system would simplify paper work, reduce confusion, save time and money, and keep the probationer more alert to probation conditions.*

49. How many probationers had motion-to-revoke warrants or summonses outstanding as of 5-1-76?

a. District court:

Total: 5531
Mean Avg.: 56
Median: 8
Range: 0-2614

b. County court:

Total: 3039
Mean Avg.: 34
Median: 6
Range: 0-494

Q1-000
Probation Officers

50. How often are probationers brought back to this jurisdiction for motion to revoke hearings?

a. District court

3% (4) Never
39% (48) 1-25% of the time
6% (8) 26-50% of the time
8% (10) 51-75% of the time
29% (36) More than 75% of the time
14% (18) NA

b. County court:

11% (14) Never
 @14%
38% (47) 1-25% of the time
 @48%
6% (7) 26-50% of the time
 @7%
6% (8) 51-75% of the time
 @8%
17% (21) More than 75% of the time
 @22%
22% (27) NA

51. Does the probationer's distance from this jurisdiction when apprehended affect the decision to bring a probation violator back for hearing?

60% (74) Yes 32% (40) No 8% (10) NA

Comments: Money is the primary controlling factor: county commissioners in some jurisdictions hesitate (or decline) to approve the cost. The gravity of circumstances affecting revocation are weighed. Some counties draw a distinction between the merits of such efforts for a felony violation and the merits for a misdemeanor violation.

52. Should some standard system be developed to find and return violators to jurisdiction for hearings?

83% (103) Yes 9% (11) No 8% (10) NA

Comments: Probation is only as credible as its enforcement. Violators should be returned regardless of the cost. A uniform system would help protect society.

53. Does this department use the FBI/DPS "Flash" system on probated cases? (Circle the source used in each yes response.)

a. District court (FBI/DPS)

FBI: 49% (61) Yes 32% (40) No 18% (23) NA
 DPS: 58% (72) Yes 24% (30) No 18% (22) NA

b. County court (FBI/DPS)

FBI: 35% (43) Yes 41% (51) No 24% (30) NA
 DPS: 48% (59) Yes 31% (38) No 22% (27) NA

Comments: In some counties local law enforcement agencies and probation departments fail to cooperate on this. Several departments use both systems; some use only FBI, and some only DPS.

Q1-000
 Probation Officers

54. Do courts in this jurisdiction grant early termination?

a. District court:

77% (96) Yes* 10% (13) No 12% (15) NA

*Does court require probationer to hire an attorney?

31% (38) Yes 52% (64) No 18% (22) NA

b. County court:

45% (56) Yes** 41% (51) No 14% (17) NA

**Does court require probationer to hire an attorney?

10% (13) Yes 47% (58) No 43% (53) NA
@18% @82%

55. Does this department normally follow through after completion of a probation term to get dismissal?

a. District court

62% (77) Yes 25% (31) No 13% (16) NA

b. County court:

64% (80) Yes 19% (24) No 16% (20) NA

56. Do courts grant dismissal after completion of probation terms?

a. District court:

80% (99) Yes* 7% (9) No 13% (16) NA

*Does court require probationer to hire an attorney?

19% (24) Yes 64% (80) No 16% (20) NA

b. County court:

68% (85) Yes** 15% (19) No 16% (20) NA

**Does court require probationer to hire an attorney?

5% (6) Yes 73% (91) No 22% (27) NA
@6% @94%

57. Should records be expunged after termination?

a. District court:

27% (34) Yes 56% (70) No 16% (20) NA

b. County court:

29% (36) Yes 54% (67) No 17% (21) NA

Q1-000
Probation Officers

58. Does this department follow through after dismissal to have records with the FBI expunged?

a. District court:

16% (20) Yes 69% (86) No 14% (18) NA

b. County court:

10% (13) Yes 73% (91) No 16% (20) NA

59. Does this department retain its records after probation is terminated, expired, dismissed, or expunged, elsewhere?

a. District court:

82% (102) Yes 6% (8) No 11% (14) NA

b. County court:

76% (94) Yes 10% (13) No 14% (17) NA

60. What agency provides follow-up evaluation on probationers after probation is terminated?

<u>83% (103)</u> None	-----	County/district Attorney
<u>1% (1)</u> Courts	<u>2% (2)</u>	Other:
<u>8% (10)</u> Probation department	<u>6% (8)</u>	NA

III. COURT SERVICES

DIVERSION: Any community/local judicial procedure by or through which an accused is treated/corrected prior to or in lieu of trial.

61. Should probation departments confine their supervision to only those persons placed on probation?

55% (68) Yes 37% (46) No 8% (10) NA

Comments: Comments from many reflect the belief that current statutes dictate necessary limitations. Time and money are other limitations. Others believe probation both could and should supervise persons diverted to other programs or released pending trial, as a preventive effort.

62. Does this department have a diversion program?

18% (22) Yes* 74% (92) No 8% (10) NA

*Comments: Extra-judicial probation is practiced in one or two jurisdictions; also deferred adjudication. Some probation departments claim that they do, others that they do not have the community support and resources necessary to divert effectively.

Q1-000
Probation Officers

63. Who is responsible for the final decision to place a person in a diversion program?

<u>4% (5)</u>	Probation department	-----	Sheriff
@23%			
<u>8% (10)</u>	Court	-----	Police
@45%			
<u>1% (1)</u>	District/ county attorney	<u>5% (6)</u>	Other:
@5%		@27%	
		<u>82% (102)</u>	NA

64. Who should be responsible for the final decision to place a person in a diversion program?

<u>42% (52)</u>	Court	<u>1% (1)</u>	Sheriff
@60%			
<u>10% (13)</u>	Probation department	-----	Police
@13%			
<u>4% (5)</u>	County/ district attorney	<u>13% (16)</u>	Other:
@6%		@18%	
		<u>30% (37)</u>	NA

Comments: *Although the final decision is probably best left to the court, prosecution and probation should participate, with probation supplying adequate background information.*

65. Should an investigation into the defendant's background be required before a decision is made to place him or her in a diversion program?

<u>75% (93)</u>	Yes*	<u>2% (3)</u>	No	<u>23% (28)</u>	NA
@97%		@3%			

66. *Should the investigation include testing, if needed?

<u>76% (94)</u>	Yes	<u>2% (3)</u>	No	<u>22% (27)</u>	NA
@97%		@3%			

Comments: *When practical.*

67. Should all diversion programs be geared to require some supervision of the offender while in a diversion status?

<u>75% (93)</u>	Yes	<u>2% (3)</u>	No	<u>23% (28)</u>	NA
@97%		@3%			

Comments: *Required supervision would provide accountability for offenders and evaluation of offender progress.*

Q1-000
Probation Officers

68. Is there within this department's jurisdiction a pre-trial release/(PR) program?

15% (19) Yes 71% (88) No 14% (17) NA

**Describe: Some programs limit themselves to juveniles and/or misdemeanants. Personal recognizance bonds, even where available, are not much used. Three departments indicate they actually operate or supervise the pretrial release program. A good many rural sheriffs use personal recognizance procedures based solely on personal knowledge of offender.*

69. If a PR program exists in this jurisdiction, how effective is it?

<u>10% (13) Good</u>	<u>2% (2) Poor</u>
@72%	@11%
<u>2% (3) Mediocre</u>	<u>---- Not working at all</u>
@17%	
	<u>86% (107) NA</u>

Comments: On the whole formalized programs have reduced jail populations and also maintained low failure-to-appear or bond forfeiture rates. But these programs are subject to abuse, just like probation.

70. Who administers the pre-trial/PR program?

a. District court	b. County court
<u>6% (7) Court</u>	<u>3% (4) Court</u>
@37%	@44%
<u>4% (5) Probation department</u>	<u>2% (3) Probation department</u>
@26%	@33%
<u>1% (1) District attorney</u>	<u>1% (1) County attorney</u>
@5%	@11%
<u>3% (4) Other:</u>	<u>1% (1) Other:</u>
@21%	@11%
<u>2% (2) Multiple responses</u>	<u>93% (115) NA</u>
@11%	
<u>85% (105) NA</u>	

71. To approximately what percentage of persons filed on is pre-trial/PR considered and/or granted?

a. District court

1. Considered

5% (6) 1-20%
@43%
1% (1) 21-40%
7%
2% (2) 41-60%
@14%
2% (2) 61-80%
@14%
2% (3) More than 81%
@21%
0% (110) NA

2. Granted

5% (6) 1-20%
@50%
-- -- 21-40%
--
3% (4) 41-60%
@33%
1% (1) 61-80%
@8%
1% (1) More than 81%
@8%
90% (112) NA

b. County court

1. Considered

3% (4) 1-20%
@33%
1% (1) 21-40%
@8%
2% (2) 41-60%
@12%
2% (3) 61-80%
@25%
2% (2) More than 81%
@12%
90% (112) NA

2. Granted

5% (6) 1-20%
@55%
-- -- 21-40%
2% (2) 41-60%
@18%
2% (3) 61-80%
@27%
-- -- More than 81%
91% (113) NA

72. Should some type of evaluation be accomplished on all convicted offenders who are sentenced by:

a. A judge:

73% (91) Yes 9% (11) No 18% (22) NA

b. A jury:

64% (80) Yes 14% (18) No 20% (25) NA
@81% @18%

Comments: Presentence investigations should be conducted for all offenders, although current law does not permit this when sentencing is done by a jury.

Q1-000
Probation Officers

73. Who should carry out this evaluation?

<u>7% (9)</u> Court	-- --	Police
@9%		
<u>56% (70)</u> Probation department	<u>3% (4)</u>	Other
@71%	@4%	
<u>2% (3)</u> County/ district attorney	<u>10% (13)</u>	Multiple responses
@3%	@13%	
-- -- Sheriff	<u>20% (25)</u>	NA

74. Should a pre-trial release or PR program, in accordance with Article 2372, p-2, Vernons Civil Statutes, be established if one does not now exist?

<u>62% (77)</u> Yes	<u>16% (20)</u> No	<u>22% (27)</u> NA
@79%	@21%	

Comments: The PR bond is expedient and valuable to both county and offender when used fairly. Program funds and staff should be made available.

75. Should the probation department be given the authority and manpower to manage all forms of diversion, from arrest to conviction?

<u>54% (67)</u> Yes	<u>31% (39)</u> No	<u>14% (18)</u> NA
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Comments: This would call for appropriate checks and balances by the court, as well as sufficient personnel to handle the job. But it would facilitate diversion and comprehensive treatment.

76. Should the courts be given the sole authority for sentencing?

a. District Court

<u>75% (93)</u> Yes	<u>10% (13)</u> No	<u>14% (18)</u> NA
---------------------	--------------------	--------------------

b. County Court

<u>72% (89)</u> Yes	<u>12% (15)</u> No	<u>16% (20)</u> NA
---------------------	--------------------	--------------------

77. What percentage of current probationers do you consider could have been successfully handled nonjudicially (through diversion)?

<u>18% (22)</u> None	<u>2% (2)</u>	51-70%
@22%	@2%	
<u>31% (39)</u> 1- 10%	-- --	71-90%
@39%		
<u>22% (27)</u> 11-30%	-- --	91-100%
@27%		
<u>7% (9)</u> 31-50%	<u>20% (25)</u>	NA
@9%		

Q1-000
Probation Officers

78. What agency should be designated to control nonjudicial handling of cases?

<u>52% (65)</u>	Probation department	<u>4% (5)</u>	Other*:
<u>12% (15)</u>	District/county attorney	<u>3% (4)</u>	Multiple responses
<u>11% (14)</u>	No nonjudicial handling	<u>17% (21)</u>	NA

Comments: A special division of probation might be designated, allowing prosecuting attorneys to make recommendations.

IV. COLLECTIONS

79. Who should be responsible for collecting:

a. Probation fees

<u>1% (1)</u>	Courts
<u>76% (54)</u>	Probation department
<u>14% (18)</u>	County/district clerks
<u>2% (2)</u>	Other: (Multiple responses)
<u>7% (9)</u>	NA

b. Fines

<u>3% (4)</u>	Courts
<u>32% (40)</u>	Probation department
<u>50% (62)</u>	County/district clerks
<u>5% (6)</u>	Other:
<u>2% (2)</u>	Multiple responses
<u>8% (10)</u>	NA

c. Court costs

<u>4% (5)</u>	Courts
<u>31% (39)</u>	Probation department
<u>54% (67)</u>	County/district clerks
<u>2% (3)</u>	Other:
<u>1% (1)</u>	Multiple responses
<u>7% (9)</u>	NA

d. Restitution

<u>2% (2)</u>	Courts
<u>58% (72)</u>	Probation department
<u>30% (37)</u>	County/district clerks
<u>2% (2)</u>	Other: (Multiple responses)
<u>9% (11)</u>	NA

Q1-000
Probation Officers

80. What degree of emphasis is placed upon collection of probation fees in your jurisdiction?

a. District court

31% (38) Very strong

32% (40) Strong

21% (26) Medium

2% (3) Very little

1% (1) None

13% (16) NA

b. County court

35% (44) Very strong

29% (36) Strong

12% (15) Medium

1% (1) Very little

6% (7) None

17% (21) NA

81. Does this department have any courts which do not generally order a probation fee in some amount?

a. District court

6% (7) Yes

81% (101) No

13% (16) NA

b. County court

20% (25) Yes

65% (81) No

14% (18) NA

Comments: *Some courts which do generally order the probation fee exempt defendants for whom this would create a definite hardship. Some judges clearly feel the probationer should not have to pay.*

82. Should probation fees be retained by the supervising department on all intrastate transferred cases?

55% (68) Yes

35% (44) No

10% (12) NA

Comments: *Bookkeeping and accountability pose problems. The supervising department doing the work better deserves the fee, although on practical grounds the county retaining jurisdiction should probably also retain the money.*

83. Do the courts in this jurisdiction generally order defendants whose sentences are probated to pay the court-appointed attorney fees?

a. District court

52% (64) Yes

33% (41) No

15% (19) NA

b. County court

31% (38) Yes

48% (60) No

21% (26) NA

@39%

@67%

Q1-000
Probation Officers

84. What action is generally taken upon failure to pay each of the following fees:

ACTION TAKEN	DISTRICT COURT			
	PROBATION FEES	COURT COSTS	FINES	RESTITUTION
Motion to revoke	40%	41%	41%	56%
Capias profine	6%	18%	19%	7%
No action	21%	14%	13%	10%
Other*	7%	3%	2%	3%
NA	24%	23%	26%	23%

ACTION TAKEN	COUNTY COURT			
	PROBATION FEES	COURT COSTS	FINES	RESTITUTION
Motion to revoke	41%	35%	34%	56%
Capias profine	6%	28%	29%	6%
No action	18%	10%	10%	10%
Other*	5%	---	---	1%
NA	30%	27%	27%	27%

*Describe: Payment systems are usually worked out, taking into account evidence of ability to pay: willful neglect is reason to file a motion to revoke. Some departments find a form letter advising of payments due very effective. Only a few departments seem to take failure to pay as automatic criteria for revocation or formal action. The capias may result in a reprimand and warning by the court.

85. Who is generally responsible for deciding to issue a motion to revoke for nonpayment of fines, fees, court costs, or restitution?

a. District court

8% (10) Court
39% (49) Probation department
18% (22) District attorney
 ----- Sheriff's office
 ----- Clerk
1% (1) Other:
20% (25) Multiple responses*
24% (17) NA

b. County court

9% (11) Court
35% (43) Probation department
18% (22) County attorney
 ----- Sheriff's office
 ----- Clerk
1% (1) Other:
19% (24) Multiple responses*
18% (23) NA

*Comments: Probation and prosecuting district attorney usually decide together.

86. Who is generally responsible for deciding to issue a capias profine (fine & cost)?

a. District court

14% (18) Court
@19%
20% (25) Probation
@26% department
14% (18) District attorney
@19%
2% (2) Sheriff's Office
@2%
9% (11) Clerk
@12%
2% (3) Other:
@3%
14% (17) Multiple responses
@18%
23% (29) NA

b. County court

18% (23) Court
@24%
19% (24) Probation
@25% department
11% (14) County attorney
@14%
3% (4) Sheriff's Office
@4%
14% (17) Clerk
@17%
2% (2) Other:
@2%
10% (12) Multiple responses
@12%
23% (28) NA

V. FINANCES

87. Please complete the following information concerning funds collected for probated cases in 1975. (Indicate Yes 13% (16) No 38% (47) if figures on court costs and fines are totals collected by county or district on all cases rather than on probated cases. 49% (61) NA.)

KINDS OF FUNDS COLLECTED	TOTAL DOLLARS COLLECTED		
	DISTRICT COURT	COUNTY COURT	BOTH COURTS
Probation fees	\$3,059,510	\$1,144,548	\$ 4,204,058
Court costs	887,632	1,270,921	2,158,553
Fines	922,082	2,665,071	3,587,153
Restitutions	1,418,926	46,492	1,465,418
Totals	\$6,288,150	+ \$5,127,032	= \$11,415,182

Q1-000
Probation Officers

88. What is your total approved budget for 1976?

\$10,480,508 (117 departments)

89. Is your budget figured:

58% (72) by county?

25% (31) by district?

6% (7) Both

11% (14) NA

90. How much funding did you receive from sources other than regular county or district funds over the past three years?

<u>FUNDING SOURCE</u>	<u>1974</u>	<u>1975</u>	<u>(PROJECTED) 1976</u>
Criminal Justice Division	\$1,720,183 (35)**	\$2,255,859 (44)	\$1,639,421 (38)
Foundations*	-----	-----	\$ 975,500 (1)
Texas Alcohol Commission	-----	-----	-----
Texas Drug Abuse Division	-----	-----	-----
Other*	\$ 177,069 (2)	\$ 246,133 (5)	\$ 41,056 (4)

*Identify: Revenue Sharing; Manpower. (**No of projects)

91. How much support was taken over by regular county or district funds upon termination of specially funded programs over the past three years?

<u>ORIGINAL FUNDING SOURCE</u>	<u>1974</u>	<u>1975</u>	<u>(PROJECTED) 1976</u>
Criminal Justice Division	\$166,002 (8)**	\$1,015,786 (25)	\$2,053,489 (33)
Foundations*	\$330,000 (2)	-----	-----
Texas Alcohol Commission	-----	-----	-----
Texas Drug Abuse Division	-----	-----	-----
Other*	-----	\$ 10,000 (1)	\$ 5,021 (2)

*Identify: Several departments report that outside funding was replaced solely by probation fees - no local monies made available.
** (No. of projects)

Q1-000
Probation Officers

VI. COMMUNITY RESOURCE MANAGEMENT

92. Do you feel this department could operate at its maximum potential as a community-based corrections agency?

57% (71) Yes 23% (28) No 20% (25) NA
@72% @28%

Comments: *Inadequate facilities, manpower and interest from County Commissioners and judges stand in the way of fulfilling this potential. Some departments feel they are fully using all rehabilitative opportunities in the community to achieve their mission of client change.*

93. Do you feel that local, state and federal resources have an impact upon community-based probation systems?

68% (84) Yes 8% (10) No 24% (30) NA
@89% @11%

**How? "Where there is money there is certainly impact." Without them there would be few probation systems in existence today. They have provided not only more dollars, but also better services and better ideas.*

***Why not? NA*

94. Estimate as accurately as possible how many probationers in your jurisdiction were receiving the following kinds of assistance as of May 1, 1976: (Do not include social security, old age assistance, disability payments.)

- a. Welfare assistance Total 3586 (73 Jurisdictions)
b. Food stamps Total 5036 (6 Jurisdictions)
c. Unemployment Total 5,497 (74 Jurisdictions)
d. Other Public subsistence* 233 (9 Jurisdictions)

**List: Texas Rehabilitation Commission; G.I. Bill money; and employment and training programs (CETA, Manpower).*

95. Is there a lack of use of available community resources in your department's jurisdiction?

36% (45) Yes 51% (63) No 13% (16) NA

Comments: *The resources themselves are lacking, at least in smaller communities (although nearby metropolitan resources may sometimes be employed). Some potential resources make themselves inaccessible or do not fully cooperate. But some departments assert that they use every resource available.*

96. Do community resource agencies cooperate to provide service to probationers?

<u>27% (33)</u>	Yes, fully	<u>6% (8)</u>	Yes, but only in rare cases
<u>33% (41)</u>	Yes, to a large extent	<u>3% (4)</u>	No
<u>19% (24)</u>	Yes, in some cases	<u>11% (14)</u>	NA

Comments: *Most agencies are helpful, and probation officers are grateful for any and all aid received. Fees charged sometimes pose a problem for probationer and department.*

97. Do community resource agencies demonstrate an understanding that probationers, no matter what their backgrounds or capabilities, face special problems because of the stigma attached to criminal conviction?

<u>68% (84)</u>	Yes	<u>17% (21)</u>	No	<u>15% (19)</u>	NA
-----------------	-----	-----------------	----	-----------------	----

Comments: *Certainly many do not. Business and industry are singled out for their failures to act (even when they verbalize both understanding and willingness to do so). Some departments seem to have done a good job of educating resource agencies.*

98. Are there duplications of effort or excessive overlaps in the services provided by the probation department and community resource agencies?

<u>3% (4)</u>	Yes, to a large extent
<u>20% (25)</u>	Yes, some
<u>18% (22)</u>	Yes, in a few areas
<u>44% (55)</u>	No
<u>14% (18)</u>	NA

Comments: *Yes, but there are also "grey areas" where many cannot qualify for certain needed services.*

99. How could such duplications best be eliminated?

By:

- better communications between agencies;
- a simple coordination plan;
- a complex federal/state evaluation and reorganization;
- refined top level management policies;
- interagency planning workshops; and/or
- probation funds designated for contract services.

"What overlaps we have are by and large protection against neglect"

Q1-000
Probation Officers

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

SERVICE	AVAILABLE		OUTSIDE RESOURCE	WITHIN DEPARTMENT	UTILIZED		ESTIMATED CASES 1975 (TOTAL)
	Yes	No			Yes	No	
Physical examination	55%	19%	53%	2%	42%	7%	708
Psychological/psychiatric testing	65%	11%	60%	9%	54%	4%	1187
Aptitude testing	54%	18%	51%	8%	41%	10%	1934
Psychological/psychiatric evaluation	64%	11%	60%	6%	51%	3%	1982
Vocational rehabilitation/training	66%	7%	63%	2%	55%	3%	2713
Employment placement/counseling	64%	10%	50%	28%	53%	3%	7622
Residential treatment within 100 miles	51%	22%	46%	1%	37%	7%	1003
Halfway House	45%	28%	43%	2%	31%	10%	2317
Alcohol treatment	68%	8%	67%	6%	56%	3%	2484
Alcohol detoxification (medical)	49%	25%	49%	1%	35%	9%	248
Drug treatment	58%	18%	57%	2%	43%	7%	1053
Drug detoxification (medical)	41%	27%	42%	1%	29%	11%	262
Urine analysis	42%	27%	36%	9%	25%	12%	411
Personal counseling	71%	5%	44%	56%	52%	3%	22160
Group counseling	50%	23%	38%	18%	31%	15%	2678
Special family counseling	56%	18%	46%	22%	40%	10%	1808
Alcohol abuse education	64%	10%	56%	22%	47%	9%	6357
Drug education	53%	17%	50%	11%	37%	11%	1914
Non-judicial probation	26%	44%	4%	22%	23%	11%	111
Loan funds	4%	65%	3%	2%	4%	15%	5
Transient housing	20%	48%	19%	2%	15%	10%	272
Referral services	44%	21%	38%	24%	38%	3%	3751
Education & training	49%	21%	46%	4%	35%	8%	3298
Other*							
*Identify: -----	Yes ---	No ---	Yes ---	Yes ---	Yes ---	No ---	---

Q1-000
Probation Officers

VII. GENERAL OPINIONS

105. Are you satisfied with the way your department is operated?

57% (71) Yes 33% (41) No 10% (12) NA

Comments: A good, healthy degree of discontent apparent in responses. Some departments "are continually looking for ways to improve our effectiveness." Frustration grows primarily out of inadequate manpower to do the job. Other handicaps mentioned are loose cooperation with or from judicial level, low salaries, limited resources, and failure to screen candidates for probation.

106. Do you consider your probation system to be specifically oriented toward reducing crime/recidivism?

81% (101) Yes 9% (11) No 10% (12) NA

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

107. What major constraints work against the accomplishment of that goal?

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

108. What steps could be taken at the local level to neutralize these constraints? At the State level?

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

Q1-000
Probation Officers

109. How do each of the following agencies or individuals in your jurisdiction regard the idea of probation and the services provided by the probation department?

a. District court:

60% (74) Favorably 1% (1) Unfavorably 1% (1) Neutral 39% (48) NA

b. County court:

55% (68) Favorably 2% (3) Unfavorably 2% (2) Neutral 41% (51) NA

c. District attorney:

53% (66) Favorably 2% (2) Unfavorably 2% (3) Neutral 43% (53) NA

d. County attorney:

45% (56) Favorably 2% (3) Unfavorably 3% (4) Neutral 49% (61) NS

e. Defense counsel:

57% (71) Favorably 2% (2) Unfavorably 2% (3) Neutral 39% (48) NA

f. County commissioners:

43% (54) Favorably 3% (4) Unfavorably 2% (3) Neutral 51% (63) NA

g. Local law enforcement agencies:

48% (59) Favorably 2% (2) Unfavorably 2% (3) Neutral 48% (60) NA

h. Locally assigned State law enforcement officers:

46% (57) Favorably ---- Unfavorably 2% (3) Neutral 52% (64) NA

i. Probationers:

48% (60) Favorably 1% (1) Unfavorably 2% (3) Neutral 48% (60) NA

110. What, if anything, could or should be done to change these opinions? (Identify response with corresponding letters in #109.)

Improved education and communication with each entity is the first key. The present system of state funding for institutional corrections and local funding for community corrections not only creates disparities but also encourages commitments to the Department of Corrections so the state will foot the bill.

Q1-000
Probation Officers

111. Do you favor: (Check all applicable.)

- 7% (9) a. A statewide adult probation system under the authority of the executive branch
- 6% (7) b. A combined adult parole/adult probation system within the executive branch
- 31% (38) c. A state adult probation system under the authority of the judicial branch.
- 67% (83) d. Probation services under local judicial control, with a State service center to promote standards and uniformity.
- 15% (19) e. Probation departments operated by county rather than by judicial district.
- 30% (37) f. State subsidy of probation departments, based upon district population.
- 45% (56) g. State subsidy based upon the number of probationers under care of the probation department.
- 20% (25) h. State subsidy with State authority to withhold monies not being used for recommended programs.
- 31% (39) i. State subsidy without State control over usage.
- 11% (14) j. No change in present statutes or authority concerning adult probation.
- 2% (2) k. Other:

Comments: *Probation departments across the state need uniformity of standards and procedures, but local judicial control works well otherwise.*

112. Should all probation standards, administrative guides and provisions, etc., be included under one State statute?

74% (92) Yes 15% (19) No 10% (13) NA

Comments: *Some standards should be dictated by law--others set by a state board or commission and subject to their discretion.*

113. How closely does your department's operation correlate with the recommendations in the Texas Adult Probation Manual?

3% (4) Not at all

6% (7) Very little

40% (50) Some

41% (51) Very closely

10% (12) NA

Q1-000
Probation Officers

114. Does the department plan to change any forms now used to make them comparable with the forms recommended in the Manual?

52% (65) Yes 32% (40) No 15% (18) NA

Comments: *Rural needs for simpler procedures (hinging on limited man-power) are not always met by those forms adopted in the Manual. Most forms used around the state are deemed to be comparable.*

115. Does the probation department have adequate facilities and equipment to effectively carry out its responsibilities?

43% (54) Yes 46% (57) No 10% (13) NA

Comments: *Counties often cannot afford sufficient space and office equipment--but the most crying need is for staff money.*

116. Please list your major concerns about the present system for providing probation services, both within your department and throughout the State.

- *Nonuniformity of services.*
- *Inconsistency in objectives.*
- *Inadequate funding.*
- *Need for training.*
- *Need for more resources in smaller rural areas.*
- *Inadequate use of presentence investigations.*
- *Need to recognize probation as a profession.*
- *Misuse of probation by prosecutors and the courts.*
- *Need for misdemeanor probation.*

117. Please describe briefly any particular activities, services, system of administration, etc., existing in your department which might be useful to other departments.

(Responses here suggested worthy practices which will be described elsewhere in the body of this report.)

118. Would your department allow a team evaluation of one or more of those activities for consideration in the Adult Probation Master Plan?

---- Yes ---- No

Comments: *NA*

Q1-000
Probation Officers

VIII. FOR COMBINED ADULT AND JUVENILE SERVICED COUNTIES ONLY

1. Is the work on adult and juvenile cases performed by the same officer?

38% (47) Yes 12% (15) No 50% (62) NA

Comments: Economics require combined case work in rural counties. Responses indicate that many juveniles on probation are not supervised--only exceptional cases will be referred to the probation department for its attention.

2. Is the department primarily considered:

2% (2) A juvenile discipline
@4%
15% (19) An adult discipline
@34%
24% (30) No discipline difference
@54%
3% (4) Multiple response
@7%
56% (69) NA

3. Which discipline has priority?

5% (6) Juvenile
@11%
8% (10) Adult
@18%
31% (39) No difference
@70%
56% (69) NA

4. If combined case work, estimate the average percentage of time spent on juvenile by case workers:

<u>14% (17)</u> 1-20%	<u>2% (2)</u> 51-60%
@35%	@4%
<u>6% (7)</u> 21-30%	<u>5% (6)</u> 61-70%
@15%	@12%
<u>4% (5)</u> 31-40%	<u>2% (2)</u> 71-80%
@10%	@4%
<u>7% (9)</u> 41-50%	-- -- Over 80%
@19%	
	<u>61% (76)</u> NA

Q1-000
Probation Officers

5. Describe the advantages and disadvantages of combining adult and juvenile probation departments.

Consolidated administration is expedient, conserving expenses for facilities, equipment and personnel. Officers in each area may help cover for, and may learn from one another. In rural counties where the district judge is also juvenile judge a single department improves working relations. The administrative combination is far more compelling than the concept of combined case work for juveniles and adults: the two disciplines, the treatment needs, even the legal procedures for each are distinctly different and should not be confused. A juvenile probationer handled unsuccessfully should not work with the same probation officer as an adult.

6. Would you recommend that most departments combine adult and juvenile services?

18% (22) Yes 26% (32) No 56% (70) NA
 @41% @59%

This would be feasible only in small communities, where it is at best a necessary evil, according to those commenting.

IX. FOR DEPARTMENTS WHICH PROVIDE LAW ENFORCEMENT SERVICES OR SUPPLEMENT LAW ENFORCEMENT SERVICES ONLY

1. Do the case work officers:

a. Make arrests?

14% (17) Yes* 2% (3) No 84% (109) NA
 @85% @15%

*Are they certified as peace officers?

6% (8) Yes 9% (11) No 85% (105) NA
 @40% @60%

b. Transport prisoners?

14% (18) Yes 2% (2) No 84% (104) NA
 @90% @10%

Q1-000
 Probation Officers

2. Does the department have special officers who perform these duties?

3% (4) Yes* 12% (15) No 85% (105) NA
@21% @79%

*Are they certified as peace officers?

3% (4) Yes 6% (7) No 91% (113) NA

*Are they qualified as probation officers?

8% (10) Yes -- -- No 92% (114) NA

3. Which responsibilities do officers in No. 2 above have other than arresting and transporting probation violators?

<u>7% (9)</u> Violation investigations	<u>6% (7)</u> Collection of court ordered monies
<u>8% (10)</u> Case work supervision	<u>2% (2)</u> Serving capias profines
<u>5% (6)</u> Identification processing	<u>5% (6)</u> Pre-trial release investigations
<u>6% (8)</u> Reporting violation investigations	<u>3% (4)</u> PSI
<u>2% (3)</u> Other:	

4. What is the salary range of all officers performing arrest and transport duties?

a. Minimum Mean Avg. \$9,459 b. Maximum Mean Avg. \$9,926

Range: \$7,620 - 11,064

Range: \$9,000-14,000

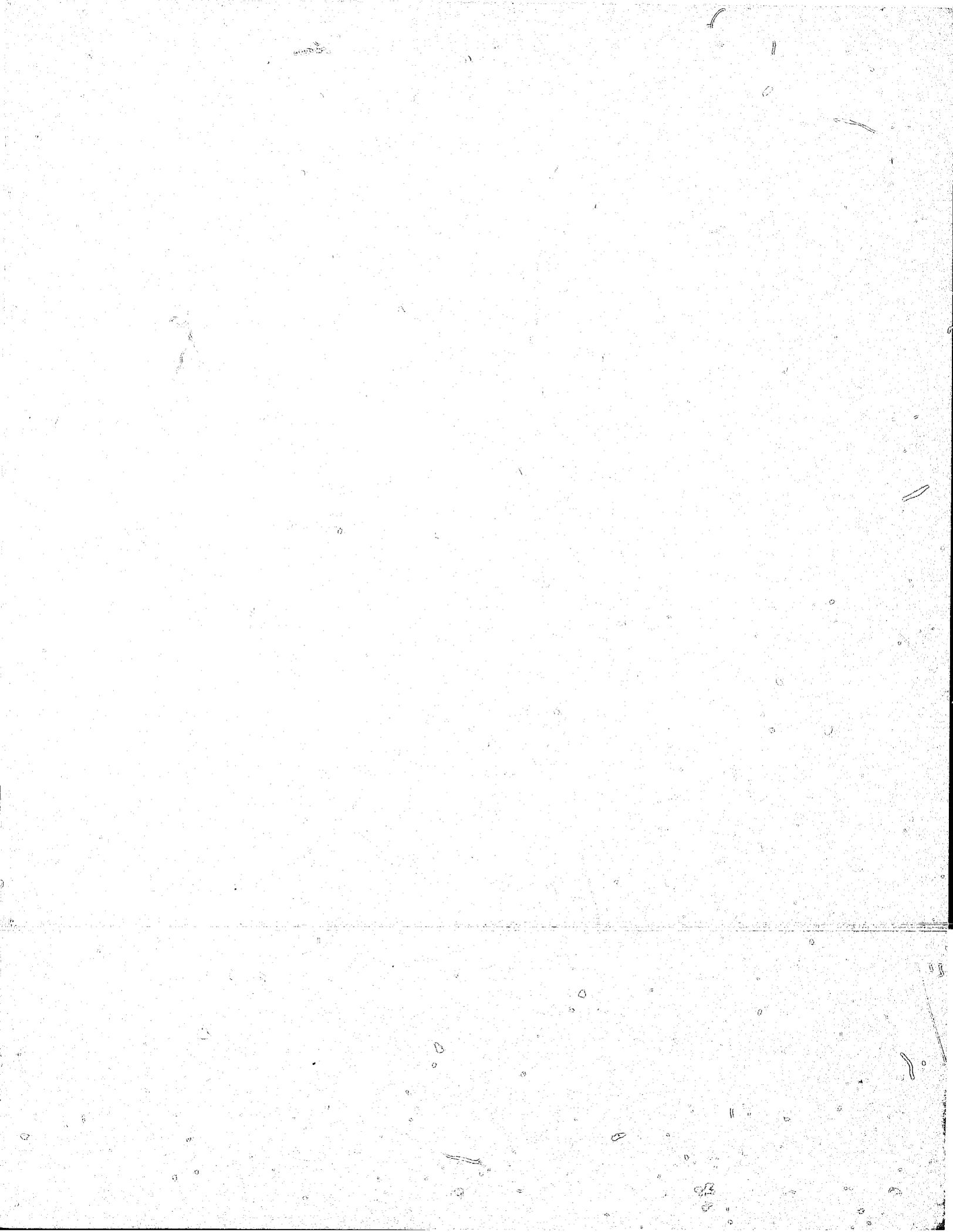
5. Describe the advantages and/or disadvantages to having probation officers, rather than local law enforcement officers, perform arrest and transport duties.

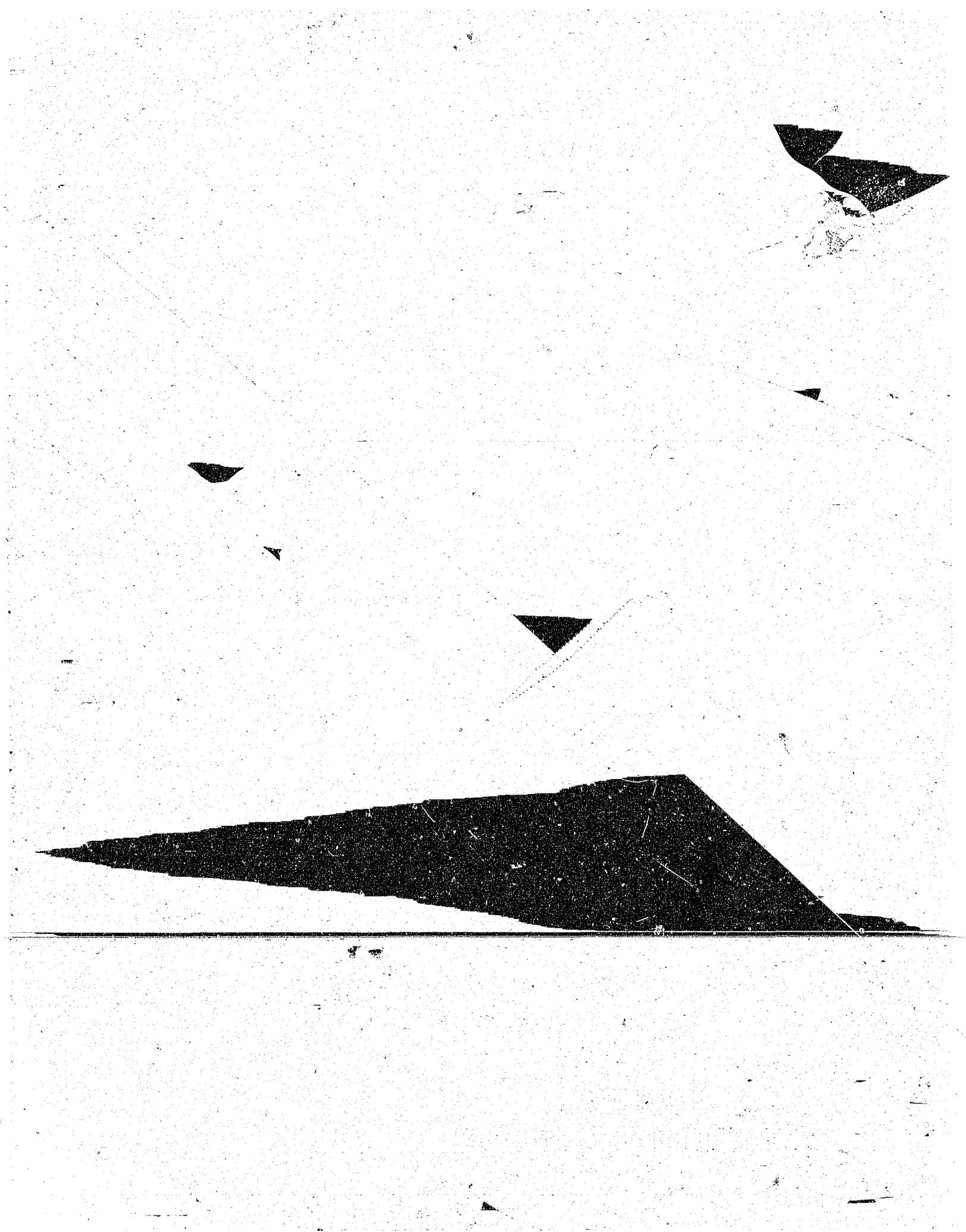
Advantages: Better handling of probationers, and speed of apprehension.

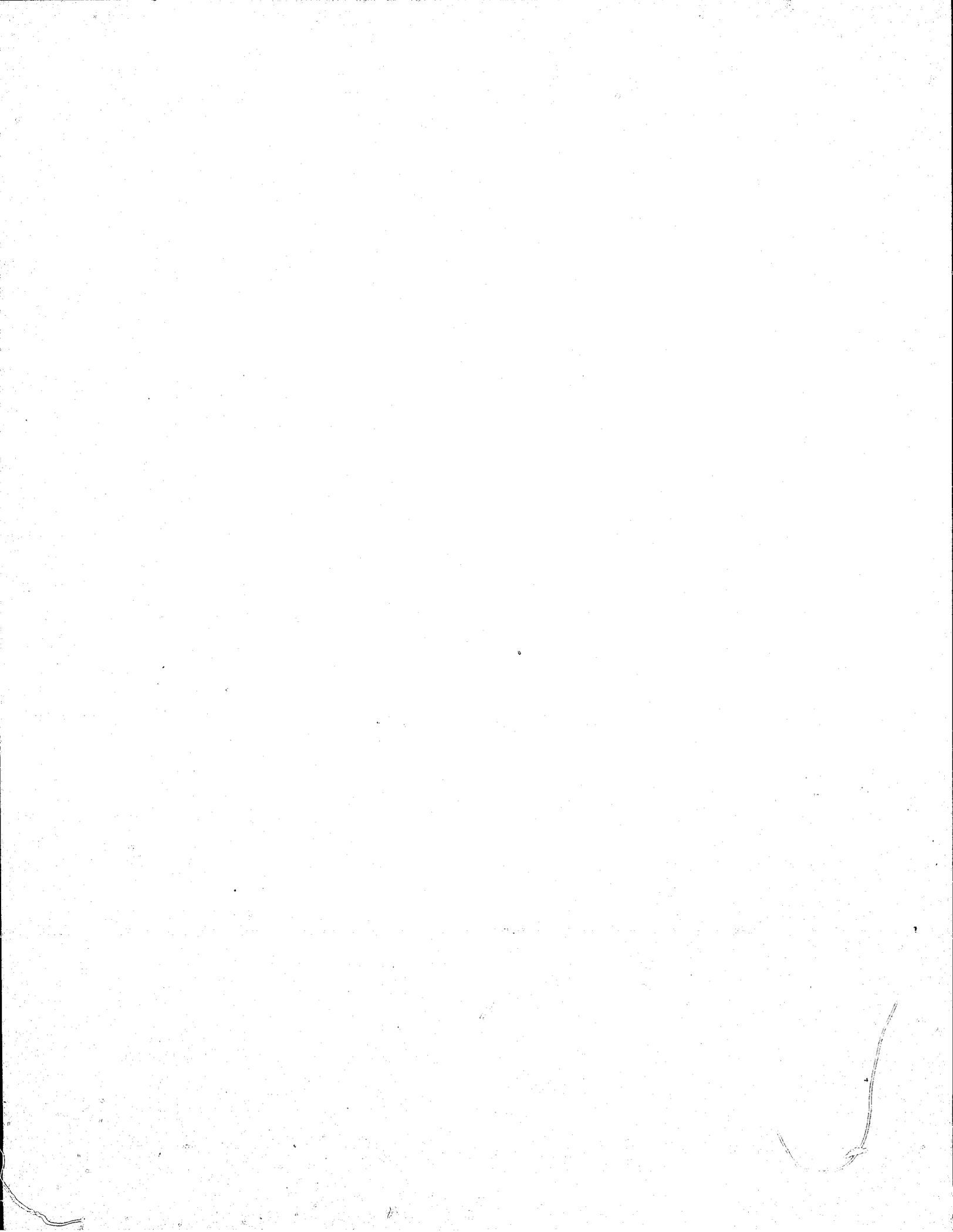
Disadvantages: Alienation between client and probation officer performing law enforcement duties, and the imposition on a probation officer's time.

Several respondents indicate they are always accompanied by a local policeman whenever making arrests.

Q1-000
Probation Officers







230 Distributed

152 Returned Completed (61% return rate)

Introduction

Questionnaire 2 was designed to canvass the judgements and insights of that branch of the judiciary responsible for probation's administration on the local or county level. Topics covered include the purposes and effectiveness of probation, diversion, pretrial release and personal bond, sentencing and presentence investigation, and revocation. Judges were also asked to describe their local department's practices, and to indicate desirable changes in legislated authority or means of financing probation.

The questionnaire was distributed by the task force to every district judge in the state, the Center for the Judiciary assisted in following up, and responses were collected between May 15, 1976 and October 30, 1976. Survey results represent 215 counties.

Interpreting Survey Results

We have followed the same format as we did with the probation officer questionnaire in presenting tabulations and percentages of responses received. The percentage of total possible responses (rounded to the nearest whole number) is followed by the number of responses in parentheses.

When no response was given to a question or when the response given was equivocal, this was recorded as "NA". If more than 20% of the judges participating in the survey failed to respond to a given question we show a second, adjusted, percentage below the first with the sign @ setting it off (e.g., @37%). This adjusted figure represents the percentage of all who actually answer that question. Thus, for example, for question 2 which asks, "Does a single probation department serve all the counties within your jurisdiction?" we recorded:

76% (116) Yes 20% (30) No 4% (6) NA

The 116 judges responding "yes" constitute 76% of all those surveyed. If this frequency were adjusted to remove the 6 not answering question 2, it would be shown as @79%.

The survey instrument solicited comments on many questions. Often comments qualify and/or interpret numerical responses. Staff have digested the differences of opinion or consensus that emerge from commentaries, and include this summary here in our report on survey findings, typed in italicized script below the applicable question.

TEXAS CENTER FOR THE JUDICIARY ADULT PROBATION MASTER PLAN



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San Antonio

NAME OF JUDGE: _____

JUDICIAL DISTRICT: _____

JURISDICTION (CHECK ALL APPLICABLE):

95% (144) Criminal 70% (107) Juvenile 82% (125) Civil

1. Do you have a formally established probation department to serve your court?

96% (146) Yes 1% (2) No 3% (4) NA

*If yes, please answer questions 2-48.

**If no, please answer questions 20-54.

2. Does a single probation department serve all the counties within your jurisdiction?

76% (116) Yes 20% (30) No 4% (6) NA

*If no: a. Name counties without any service:

Glasscock, Hardin*
Kenedy, Milam*

b. Name counties with separate services:

29 judges identified all of 74 counties in their jurisdictions maintaining services separate from those described herein.

c. Give circumstances for lack of services or separate services:

NA

3. Does the adult probation department serving your court also provide services to juveniles?

28% (43) Yes 67% (102) No 5% (7) NA

Comments: Administration is often combined where services kept separate and district. Different counties in same jurisdiction had different arrangements.

4. Does the probation department have sufficient staff to effectively carry out its responsibilities?

59% (89) Yes 35% (53) No 7% (10) NA

Comments: Despite the statistics, almost all comments emphasized need for more staff for effective performance.

**N.B.: Since this survey was conducted, probation departments have been created in these two counties.*

Q2-000
District Judges

5. Does the probation department have adequate facilities and equipment to effectively carry out its responsibilities?

60% (92) Yes 33% (50) No 7% (10) NA

Comments: *Again, commentary emphasizes inadequacies - most often, of space and budget.*

6. What do you consider to be a probation officer's principal role as an officer of the court?

Responses here generally reiterated by answers to #8 below.

7. Do you have regularly scheduled conferences:

- a. With the probation officer serving your court?

47% (72) Yes 46% (70) No 7% (10) NA

- b. With the probation chief (if the chief is not the officer serving your court)?

4% (63) Yes 40% (61) No 18% (28) NA

8. Which of the following describe the services offered through your probation department? (Check all applicable.)

59% (89) a. Surveillance

89% (136) b. Supervision over court orders

93% (142) c. Reporting of violations

84% (128) d. Employment assistance

47% (71) e. Financial management counseling

68% (104) f. Alcohol treatment

61% (93) g. Drug treatment

57% (87) h. Mental health treatment

34% (52) i. Physical health treatment

59% (90) j. Educational assistance

56% (85) k. Family counseling

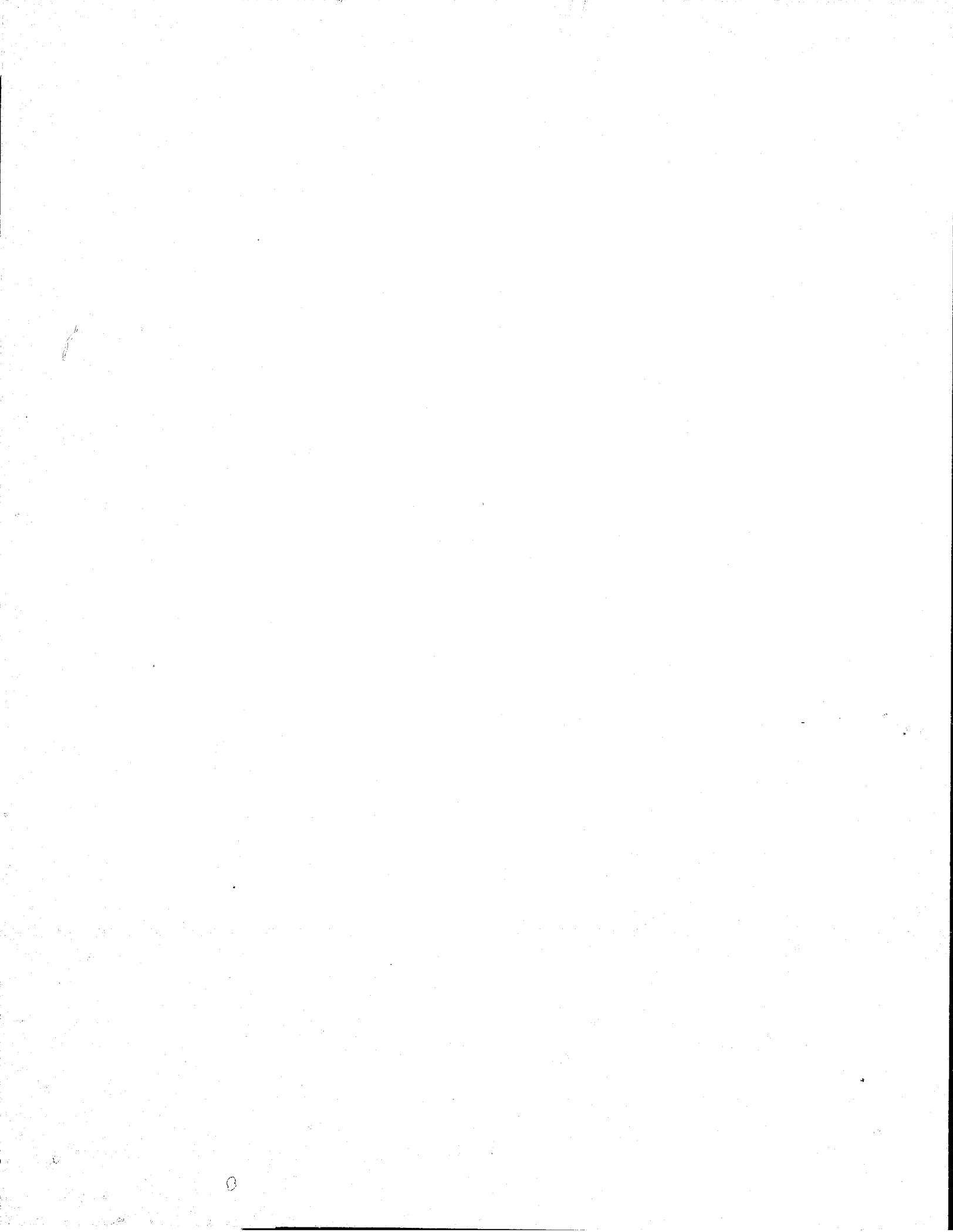
28% (43) l. Transportation for services

*Enforcement
of
Court Terms*

*Economic
Assistance*

*Direct
Remedial
Services*

Q2-000
District Judges



CONTINUED

3 OF 5

8. Contd. (services offered)

74% (112) m. Guidance in coping with societal pressures

72% (109) n. Guidance in values and attitudes

9% (14) o. Other: *pre and post-sentence investigations; referral to other agencies.*

9. Which of the services listed in question 8 do you consider:
(Fill in the appropriate letter.)

B: 60% (88) Most important to the operation of the judicial system?

L: 28% (43) Least important to the operation of the judicial system?

D: 26% (39) Most important to the probationer?

L: 18% (25) Least important to the probationer?

DIVERSION: Any community/local judicial procedure by or through which an accused is treated/corrected prior to or in lieu of trial.

10. Who should be responsible for the final decision to place a person in a diversion program?

68% (103) Court --- Sheriff

7% (10) Probation department --- Police --- Other

7% (11) County/district attorney 18% (28) NA

Comments: *Prefer cooperative agreement from the several parties involved, with final authority exercised by the court.*

11. Should any decision be made to place a person into a diversion program without an investigation into background, stability, emotional condition, etc.?

4% (6) Yes 86% (131) No* 10% (15) NA

12. *Should the investigation include testing, if needed?

85% (129) Yes 3% (5) No 12% (18) NA

Comments: *"In appropriate, selected cases."*

13. Should all diversion programs be geared to require some supervision of the offender while in diversion status?

88% (134) Yes 3% (5) No 9% (13) NA

Comments: *Diversion is only effective if supervised.*

14. Could you legally permit your adult probation department to oversee community diversion programs for the accused prior to or in lieu of going to court?

47% (71) Yes* 35% (53) No 18% (28) NA

Comments: *Confusion, lack of consensus apparent in wide range of comments. Generally respondents are uncertain of their legal authority to do this and most concerned that this would overtax probation department.*

*If yes, do you do so?

15% (23) Yes 22% (34) No 62% (95) NA
@40% @60%

15. Does the probation officer submit a background investigation report on the defendant before a finding of guilty by the court?

31% (47) Yes 60% (92) No* 9% (13) NA

*If no, should this be done?

22% (33) Yes 35% (54) No 43% (65) NA
@38% @62%

Comments: *Again, wide divergence of feelings expressed; some courts request and receive a report at this time. Many judges are wary of constitutional issues: feel the PSI "should be independent of" and should follow upon guilty finding.*

22% (33) Yes 35% (54) No 43% (65) NA
@38% @52%

16. Do you require any form of investigation by the probation department into the defendant's background prior to sentencing?

67% (102) Yes 22% (33) No 2% (3) Don't know 9% (14) NA

Comments: *Limited staff time cited.*

Q2-000

District Judges

17. Do you solicit from your probation officer, either through an investigation report or in court, recommendations for sentencing?

<u>20% (31)</u> Never	<u>33% (50)</u> Occasionally
<u>13% (20)</u> Rarely	<u>26% (39)</u> Almost always
	<u>7% (10)</u> NA

18. Do you require a probation officer to be present in the courtroom during sentencing of a defendant whose sentence will be probated?

<u>13% (20)</u> No	<u>23% (35)</u> Most of the time
<u>2% (3)</u> Rarely	<u>53% (80)</u> Always
<u>3% (5)</u> Occasionally	<u>6% (9)</u> NA

19. Does your probation department complete a background investigation report on those defendants sent to TDC, to be sent to TDC either with the court papers or immediately thereafter?

<u>24% (36)</u> Yes	<u>62% (94)</u> No	<u>14% (22)</u> NA
---------------------	--------------------	--------------------

Comments: *Seldom a routine service; done upon special request of TDC or when application for probation denied.*

20. How would you rate the overall effectiveness of adult probation as a method of correction, compared to incarceration?

<u>35% (53)</u> More effective in almost all cases
<u>41% (63)</u> More effective in some cases
<u>3% (5)</u> More effective in a few cases
<u>2% (3)</u> Less effective in some cases
<u>2% (3)</u> Less effective in almost all cases
<u>16% (25)</u> NA

21. What programs would you change or implement in adult probation if adequate finances were available?

- *Lower case loads by increasing and training staff.*
- *More emphasis on background investigations of accused, to establish needs.*
- *Greater community resource utilization and agency participation.*
- *More technical assistance to probationer, e.g. employment, medical and psychological, drug and alcohol services.*

Q2-000
District Judges

22. Do you favor: (Check all applicable and rate by preference beginning with 1 as highest priority.)

- 7. a. A statewide adult probation system under the authority of the executive branch
- 9. b. A combined adult parole/adult probation system within the executive branch
- 2. c. A State adult probation system under the authority of the judicial branch
- 1. d. Probation services under local judicial control, with a State service center to promote standards and uniformity
- 8. e. Probation departments operated by the county rather than by judicial district
- 3. f. State subsidy of probation departments, based upon district population
- 4. g. State subsidy based upon the number of probationers under the care of the probation department
- 10. h. State subsidy with State authority to withhold monies not being used for recommended programs
- 6. i. State subsidy without State control over usage
- 5. j. No change in present statutes or authority concerning adult probation
- k. Other

23. Do you favor combining Article 42.12 and 42.13, CCP, to cover all standards, procedures, qualifications, authorities, etc. concerning probation?

63% (96) Yes 24% (37) No 12% (19) NA

Comments: "The few differences between felony and misdemeanor probation are troublesome, and serve no truly useful function"; "it is logical and advantageous to statutorily combine the two articles."

24. What academic and professional qualifications do you feel one should have to qualify as an adult probation officer?

69% (105) As now required in Section 10, Article 42.12, CCP

16% (24) Higher than now required*

6% (9) Lower than now required*

9% (14) NA

*Comments: "While strong endorsement to education requirements are made, comments also support standards for continued training, basic training for certification and good common sense."

Q2000

District Judges

25. Should there be a standard minimum salary for beginning adult probation officers?

63% (96) Yes* 28% (43) No 9% (13) NA

*If yes, what annual salary would you recommend? Range of \$7,500-20,000; \$10,000-12,000 (depending upon qualifications) are most recurrent figures.

Comments: Counties have differing needs, differing abilities to pay.

26. Is the case load of 75 cases per probation officer established in Section 10, Article 42.12, CCP:

4% (6) Much too high?
20% (31) Somewhat too high?
45% (69) About the right number?
17% (26) Somewhat too low?
3% (5) Much too low?
10% (15) NA

Comments: Consideration of its appropriateness depends first on type of caseload, needs of probationers, secondly on geographic area and travel requirements. Again, comments were predicated on the availability of monies.

27. What percentage of offenders do you consider likely to be corrected/rehabilitated through probation even without the services of a probation department?

4% (6) None 23% (35) 31-50%
25% (38) 1-10% 5% (8) 51-70%
28% (43) 11-30% 4% (6) More than 70%
10% (16)

Comments: Forming a response "pure guess work" - "unsupervised probation would have little value to most probationers." But, some offenders are "self-rehabilitated."

Q2-000
District Judges

28. Should a probation officer carry a gun?

32% (49) Yes 60% (92) No 1% (1) Don't know 7% (10) NA

Comments: Both camps on this issue qualified their response, stating a gun should be carried when needed, or when making arrest on court order, providing P.O. is trained in its use.

29. Do you approve of the use of volunteer workers in probation services?

78% (119) Yes 16% (24) No 6% (9) NA

Comments: Volunteers are a "tremendous resource if properly handled." Some caution about their selection, control and use; while volunteers should not have a free run on probationers or on administration, their help is essential.

30. Which of the following most often influence your decision to grant probation?

66% (101) Recommendation of D.A.

18% (27) Recommendation of defense attorney

41% (63) Recommendation of probation officer

68% (103) Nature of offense

22% (34) Frequency of offense in community

41% (62) Circumstances influencing criminal act

14% (21) Amount of restitution recovery

8% (12) Docket load

34% (52) Presentence investigation report

13% (20) Testimony of character witnesses

16% (25) Defendant's testimony

55% (83) Defendant's age

43% (65) Defendant's background

34% (51) Defendant's mental/emotional maturity

51% (78) Defendant's attitude

6% Other:

QZ-000
District Judges

30. Contd.

Comments: Defendant's family financial situation mentioned; some emphasized isolated considerations, but most expressed the need to rely on all of these in sentencing.

31. What agency should be responsible for collecting the following fees in probated cases: (Check one agency for each category.)

<u>AGENCY</u>	<u>PROBATION FEES</u>	<u>COURT COSTS</u>	<u>RESTITUTION</u>	<u>FINES</u>
Probation department	84%	36%	74%	36%
Court Clerk	10%	53%	14%	38%
District attorney	---	---	7%	---
Sheriff's office	---	5%	---	16%
Court	---	---	---	3%
Other (Please list)	---	---	---	---
NA	3%	3%	3%	7%

Comments: If made a condition of probation, probation department should be responsible for collecting or enforcing, whether fees, cost, restitution or fines. This is the only way to keep up with collections and is convenient at reporting time.

32. How often do you require fines in probated cases?

<u>10% (16)</u> Never	<u>8% (12)</u> 31-45%
<u>39% (59)</u> 1-15% of the time	<u>7% (11)</u> 46-60%
<u>12% (19)</u> 16-30%	<u>14% (22)</u> More than 60%
	<u>9% (13)</u> NA

33. Do you order probation fees:

<u>44% (67)</u> In every case?	<u>----</u> Seldom?
<u>43% (66)</u> In most cases?	<u>3% (4)</u> Never?
<u>2% (3)</u> Occasionally?	<u>8% (12)</u> NA

Comments: Exemptions noted "for good cause shown," indigency. Consolidation of fees in concurrent cases suggested.

Q2-000

District Judges

34. Do you order defendants placed on probation to repay the county for the services of a court-appointed attorney:

16% (24) In every case? 7% (10) Seldom?

30% (46) In most cases? 24% (36) Never?

18% (27) Occasionally? 6% (9) NA

Comments: NA

35. Do you feel that the pre-trial release of an accused, charged but not indicted (personal bond, as set out in Article 2372 p-2, Vernon's Civil Statutes) is an effective method of correction/rehabilitation?

8% (12) Yes, in most cases 25% (38) Yes, in a few cases

40% (61) Yes, in some cases 19% (29) No

8% (12) NA

36. If such a PR bond program is to be used, should an accused be placed under supervision as a condition of personal bond?

68% (104) Yes 24% (36) No 8% (12) NA

Comments: *This is desirable, but usually not feasible because of staff shortage.*

37. If you answered yes to questions 35 or 36, what agency should provide administration and/or supervision for the program?

a. Administration

47% (72) Probation department

11% (17) Sheriff's department

4% (6) Prosecutor's office

18% (20) Special county personal bond office

1% (1) Other

Q2-000)
District Judges

37. Contd.

b. Supervision

- 46% (70) Probation department
- 7% (11) Sheriff's department
- 1% (2) Prosecutor's office
- 10% (16) Special county personal bond office
- 1% (1) Other

Comments: NA

38. What agency should be responsible for serving warrants for adult probation violations and transporting probationers under arrest for violations?

- 15% (23) Probation department 12% (18) Police department
- 89% (135) Sheriff's office 1% (1) Other

Comments: *This is primarily the sheriff's responsibility, with cooperation of other agencies.*

39. Do you generally revoke probation under admissible evidence for: (Check all applicable.)

- 57% (86) Reporting violations?
- 25% (38) Nonpayment of monies?
- 51% (78) Misdemeanor law violations?
- 64% (98) Absconding?
- 49% (75) Violation of special orders, such as drinking, failure to accept drug or alcohol treatment, etc.?
- 10% (15) None of these.

Comments: *"A composite of the above, or a single serious violation."*

Q2-000
District Judges

40. Do you use the deferred proceedings as set out in Section 3d (a), Article 42.12, CCP?

<u>22% (33)</u> Never	<u>5% (7)</u> 11-25% of cases
<u>43% (66)</u> 1-5% of cases	<u>5% (8)</u> More than 25%
<u>9% (13)</u> 6-10% of cases	<u>16% (25)</u> NA

Comments: "Expect more frequent use in future."

41. Do you use the detention condition in addition to other conditions, as set out in section 6b (a), Article 42.12, CCP?

<u>35% (54)</u> Never	<u>9% (13)</u> 11-15% of cases
<u>23% (35)</u> 1-5% of cases	<u>5% (7)</u> More than 25%
<u>10% (15)</u> 6-10% of cases	<u>18% (28)</u> NA

Comments: Seldom "recommended or requested."

42. Do you favor legislation which would place sentencing solely at the discretion of the court?

<u>52% (79)</u> Yes	<u>41% (62)</u> No	<u>7% (11)</u> NA
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Comments: Support uniformity in sentencing. The exercise of discretion in assessing punishment calls for individual training, and/or a reliable background report. Jury necessary in capital cases; in all events might make recommendations to the court.

43. Do you favor legislation which would authorize the court to deny probation, even when recommended by a jury?

<u>53% (80)</u> Yes	<u>43% (65)</u> No	<u>5% (7)</u> NA
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Comments: Suggest that the court would seldom act against jury recommendations, but authority to do so should be statutory, with this action subject to review.

44. Do you favor legislation which would not limit the conditions the court may impose when probation is granted by a jury?

<u>82% (124)</u> Yes	<u>14% (22)</u> No	<u>4% (6)</u> NA
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Comments: Encourage the allowance of other reasonable conditions, suggesting that the jury be made aware of those the court would consider imposing.

Q2-000
District Judges

45. Do you favor legislation which would simplify avoiding a "conviction" in felony cases as allowed in Article 42.13, CCP?

48% (73) Yes 36% (55) No 16% (24) NA

Comments: NA

46. Do you favor a standard system of intrastate jurisdictional transfer of probationers:

a. When returning from your jurisdiction to their permanent home jurisdiction?

82% (124) Yes 10% (15) No 9% (13) NA

Comments: NA

b. When they have allegedly violated conditions of probation in another jurisdiction?

76% (115) Yes 14% (22) No 10% (15) NA

Comments: NA

47. Do you feel that probation departments should take on the role of coordinating community resources in order to establish a comprehensive community-based corrections system?

52% (79) Yes 37% (56) No 11% (17) NA

Comments: *There is a great need for coordination, especially in urban areas. However "this is too large an undertaking for current resources." Solutions: "additional State funds and manpower" or "each community should be organized on its own." Problems: creation of a new "ultimate bureaucracy."*

48. Please describe your major concerns, criticisms, or interests, concerning probation services within your jurisdiction.

- *Information on alternatives to imprisonment is hard to get.*
- *We need to better inform the lay public and commissioners courts about our programs.*
- *When federal funding ceases we may lose our present "quality" system.*
- *What to do with an "increasing volume of business."*
- *Probation is a feasible correctional process and ...we must... back its expansion.*
- *Concern about better staffing, facilities, PST's, specialized community services (alcohol, drug, residential, diagnostic), etc.*
- *Whether to lose local control's benefits, or to be rid of local (fiscal) struggle.*

Q2-000
District Judges

ANSWER THE FOLLOWING QUESTIONS ONLY IF YOU DO NOT HAVE A FORMALLY ESTABLISHED FULL-TIME ADULT PROBATION DEPARTMENT WITHIN YOUR JURISDICTION.

49. What do you consider to be the most important function of a probation department?

NA

50. Please list the reasons why no formal full-time adult probation service has been established in your district or in some of the counties within your district.

NA

51. Have you designated any of the following to act as part-time probation officer or supervisor in your district?

<u>1</u> Sheriff	<u>---</u> Texas Ranger
<u>---</u> Deputy sheriff	<u>---</u> Highway partol officer
<u>---</u> Constable	<u>---</u> Other peace officer:
<u>---</u> Deputy constable	<u>---</u> Prosecuting attorney
<u>---</u> Police officer	<u>---</u> Other:

Please name the counties in which you have done so:

Lamb, Bailey, Parmer

52. If you order probation fees in any cases, please describe what use is made of the fees and what accountability is provided.

NA

53. Would you see any advantages in an investigation into a defendant's background prior to sentencing, if your district had probation services?

1% (1) Yes --- No 99% (151) NA

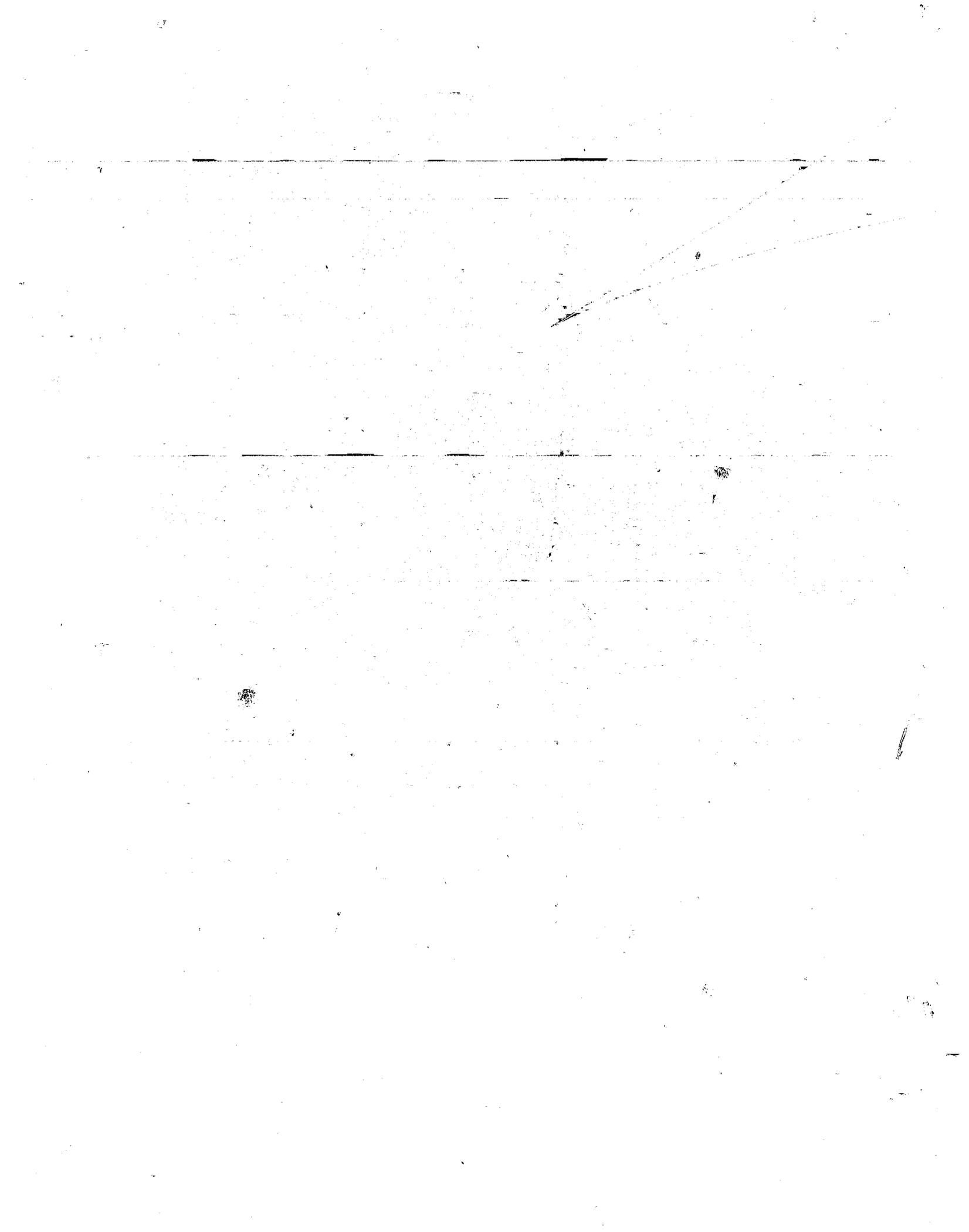
Comments: NA

54. Do you feel the old suspended sentence law provided as much correction and safety to society as supervised probation?

1% (1) Yes 99% (151) No

Comments: NA

Q2-090
District Judges





361 Distributed

245 Returned Completed (68% return rate)

Introduction

Questionnaire 3 is an abbreviated, slightly modified version of Questionnaire 2. It polls county judges who are responsible for the majority of misdemeanor cases for which a sentence might be probated, and for approximately three-fourths of the total criminal case activity for the state (Texas Judicial Council, 47th Annual Report for 1975, Austin). Issues covered range from probation's effectiveness and local departmental functions, to court practices regarding sentencing, presentence investigations, probation conditions and changes desired in administrative authority and/or financing for probation. County judges were not queried about pre-trial release and diversion.

The questionnaire was distributed by the task force; the Center for the Judiciary assisted with follow-up, and responses were collected between June, 1976 and October, 1976. Survey results represent 199 counties. (List or map will be provided.)

Interpreting Survey Results

The format in which responses are presented is consistent with the format already used. A percentage of possible responses is presented first, followed by the number of applicable responses in parenthesis. "NA" represents no answer or conflicting responses. The adjusted percentage reflects the frequency for those who answered the question.

Solicited comments or questions are summarized in a script type. Our summaries reflect a consensus of opinion where one exists, and/or the range of viewpoints as they were most clearly stated.

The reader is cautioned to interpret responses to question 30 (changes in statutory authority over probation) keeping in mind that at least 2 distinct issues have been compounded there: administrative control and means of financing probation services.

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NAME OF JUDGE: _____

COUNTY: _____ COUNTY COURT NUMBER: _____

KINDS OF JURISDICTION (CHECK ALL APPLICABLE):

87% (213) Criminal 30% (73) Juvenile 78% (191) Probate

60% (147) Administrative 78% (192) Civil

1. Are the services of a formally established, full-time adult probation department available to your court?

78% (192) Yes* 15% (36) No** 7% (17) NA

*If yes, please answer questions 2-34.

**If no, please answer questions 15-36.

2. Do you use the services of the adult probation department?

73% (179) Yes 4% (11) No* 22% (55) NA
@94% @6%

*If no, please explain why not and then skip to question 13.

No need for supervision or services felt by respondents.

3. Does the adult probation department serving your court also provide services to juveniles?

35% (87) Yes 38% (92) No 27% (66) NA
@49% @51%

Comments: NA

4. Does the probation department have sufficient staff to effectively carry out its responsibilities?

49% (121) Yes 23% (58) No 27% (66) NA
@68% @32%

Comments: *Most comments reflect concern over excessive case load for present staff; a few indicate no knowledge of state of their department.*

5. Does the probation department have adequate facilities and equipment to effectively carry out its responsibilities?

56% (138) Yes 15% (38) No 28% (69) NA
@78% @22%

Comments: *Space, privacy and equipment called for. Current facilities would not be adequate were there sufficient staff.*

6. What do you consider to be a probation officer's principal role as an officer of the court?

Support services to probationer and court; supervision, rehabilitation; presentence investigation; and fee collection.

7. Which do you consider the most significant responsibility of the probation officer in case work for your court?

24% (59) Surveillance/supervision/reporting condition violations

@35%

26% (65) Rehabilitating the offender

@39%

18% (44) Other:

26%

31% (77) NA

Comments: *Develop community resources; presentence investigations; but, "if rehabilitation is not carried out, probation has failed," and "supervision is needed before rehabilitation can take place."*

8. Which of the following describe the services offered through the probation department? (Check all applicable.)

51% (124) a. Surveillance

67% (165) b. Supervision over court orders

64% (157) c. Reporting of violations

51% (125) d. Employment assistance

30% (73) e. Financial management counseling

50% (122) f. Alcohol treatment

42% (102) g. Drug treatment

41% (101) h. Mental health treatment

23% (56) i. Physical health treatment

37% (91) j. Educational assistance

49% (119) k. Family counseling

20% (49) l. Transportation for services

44% (107) m. Guidance in coping with societal pressures

47% (115) n. Guidance in values and attitudes

2% (6) o. Other: *referral*

Q3-000
County Judges

9. Which of the services listed in question 8 do you consider:
(Fill in the appropriate letter.)

B: 42% (103) Most important to the operation of the judicial system?

L: 22% (54) Least important to the operation of the judicial system?

D: 15% (36) Most important to the probationer?

L: 20% (20) Least important to the probationer?

10. Do you consider the adult probation officer serving your court to be professionally qualified?

68% (166) Yes 2% (5) No 30% (74) NA
@97% @3%

Comments: *Positive response reflected in praise.*

11. Do you have regularly scheduled conferences:

a. With the probation officer serving your court?

37% (91) Yes 34% (84) No 29% (70) NA
@52% @48%

b. With the probation chief (if the chief is not the officer serving your court)?

23% (57) Yes 33% (81) No 44% (107) NA
@41% @59%

12. To what extent do you use the adult probation department to investigate a defendant's background prior to sentencing?

23% (57) Never
@34%

23% (57) 1-10% of cases
@34%

1% (3) 11-15% of cases
@2%

5% (13) 16-25% of cases
@8%

16% (39) More than 25% cases
@23%

31% (76) NA

Q3-000
County Judges

13. Do you require a probation officer to be present in the courtroom during sentencing of a defendant whose sentence will be probated?

<u>31% (77)</u> No	<u>15% (38)</u> Most of the time
@41%	@20%
<u>7% (18)</u> Rarely	<u>13% (33)</u> Always
@10%	@18%
<u>8% (20)</u> Occasionally	<u>24% (59)</u> NA
@11%	

14. Would you desire to have the probation department function as a community-based corrections management agency?

<u>33% (82)</u> Yes	<u>35% (86)</u> No	<u>31% (77)</u> NA
@49%	@51%	

Comments: *Concept is not familiar to numerous respondents: confused or no opinion. Concern that present staff are already overworked.*

15. Do you order special conditions in probation such as: (Check all applicable.)

<u>44% (107)</u> DWI school	<u>30% (74)</u> Curfews
<u>17% (42)</u> Driving school	<u>38% (94)</u> School attendance
<u>44% (109)</u> Drug treatment	<u>13% (33)</u> Other
<u>61% (150)</u> Alcohol treatment	<u>15% (37)</u> None of these

Comments: *Many would order such conditions were programs available, or if they knew more about them. Others "use every resource at our disposal."*

16. Do you order probation fees:

<u>37% (90)</u> In every case?	<u>2% (5)</u> Seldom?
<u>35% (85)</u> In most cases?	<u>15% (36)</u> Never
<u>2% (4)</u> Occasionally?	<u>10% (25)</u> NA

Comments: *In two instances estimated fees are combined with the fine, to save bookkeeping. Many note waivers, or "sliding scale" for fees.*

Q3-000
County Judges

17. Do you require the defendant to pay court costs when applying for probation as a requirement of eligibility for probation?

64% (158) Yes 23% (56) No 13% (31) NA

Comments: *Deferred payment is allowed by many courts; court costs may be added to fine and fees, and paid in monthly installments.*

18. Do you appoint counsel when requested by the defendant and when indigency is shown?

70% (172) Always 2% (6) Seldom

10% (25) In most cases 1% (3) Never

4% (9) Occasionally 12% (30) NA

Comments: *Several courts comment that appointed counsel is seldom requested.*

19. Do you order defendants placed on probation to repay the county for the services of a court-appointed attorney:

6% (14) In every case 11% (28) Seldom

11% (27) In most cases 47% (116) Never

11% (27) Occasionally 13% (33) NA

Comments: *Some such attorney fees are collected through court costs; some courts who do not practice this see it as a possibility. Ability to pay is considered.*

20. What agency should be responsible for collecting the following fees in probated cases: (Check one agency for each category.)

<u>AGENCY</u>	<u>PROBATION FEES</u>	<u>COURT COSTS</u>	<u>RESTITUTION</u>	<u>FINES</u>
Probation department	71%	15%	44%	16%
Court Clerk	10%	55%	20%	49%
Prosecuting attorney	---	---	13%	---
Sheriff's office	---	11%	4%	16%
Court	---	---	---	---
Other*	---	---	---	---
Multiple	2%	3%	4%	4%
NA	15%	12%	14%	13%

Comments: *Some find it easier to have the supervising agency collect all funds and then remit to the proper county official; the "prosecuting attorney and probation department should keep check and take appropriate action if default occurs."*

Q3-000
County Judges

21. Do you probate defendants in absentia?

<u>2% (4)</u> Frequently	<u>9% (22)</u> Seldom
<u>4% (9)</u> Occasionally	<u>74% (181)</u> Never
	<u>12% (29)</u> NA

Comments: NA

22. Which of the following most often influence your decision to grant probation?

<u>62% (153)</u> Recommendation of prosecuting attorney
<u>18% (44)</u> Recommendation of defense attorney
<u>36% (89)</u> Recommendation of probation officer
<u>55% (136)</u> Nature of offense
<u>25% (61)</u> Frequency of offense in community
<u>27% (66)</u> Circumstances influencing criminal act
<u>14% (35)</u> Amount of restitution recovery
<u>4% (10)</u> Docket load
<u>19% (47)</u> Presentence investigation report
<u>17% (41)</u> Testimony of character witnesses
<u>20% (48)</u> Defendant's testimony
<u>33% (80)</u> Defendant's age
<u>40% (98)</u> Defendant's background
<u>25% (62)</u> Defendant's mental/emotional maturity
<u>44% (108)</u> Defendant's attitude
<u>3% (7)</u> Other:

Comments: A combination of all of these is weighed for each individual case.

Q3-000
County Judges

23. Do you use volunteers in your court to work with defendants?

2% (6) Regularly

25% (62) Occasionally

60% (147) Never

12% (30) NA

Comments: *Availability of volunteers is mentioned as a problem.*

24. If you use volunteers, do they work with:

2% (4) All cases?

@ 5%

1% (3) All except special cases?

@ 4%

24% (58) Only special offense cases?

@ 78%

4% (9) Other:

@ 12%

70% (171) NA

Comments: *Range of comments reflects that volunteers are seldom, if ever, used to their fullest capacity for helping the professional.*

25. If you are juvenile court judge in your county, do you have the services of:

a. A juvenile probation officer:

<u>29% (70)</u> Yes	<u>6% (14)</u> No	<u>66% (161)</u> NA
@ 83%	@ 17%	

b. Same as adult officer?

<u>15% (38)</u> Yes	<u>11% (26)</u> No	<u>74% (181)</u> NA
@ 59%	@ 41%	

Comments: NA

26. Do you adhere to the five-year rule on like offense probation:

26% (65) Always 11% (26) Occasionally

35% (87) Most times 10% (24) Never

18% (43) NA

Comments: *"It is not a rule - it is a law." Yes "when we have the knowledge (necessary to do so)."*

Q3-000
County Judges

27. Do you favor combining Articles 41.12 and 42.13, CCP, to cover all standards, procedures, qualifications, authorities, etc., concerning probation?

49% (119) Yes 23% (56) No 29% (70) NA
@68% @32%

Comments: *It would simplify procedure and reduce confusion, but there is need to retain special conditions for misdemeanor probation.*

28. Do you favor legislation which would place sentencing solely at the discretion of the court?

49% (120) Yes 35% (86) No 16% (39) NA

Comments: *A judge "by experience could better fit punishment to each crime." This must be done "within the legal framework - the community must be allowed to set standards." But the jury sentence lets "the defendant's peers express their opinion."*

29. Do you feel county trial court judges and administrative county court judges should have authoritative representation in the administration of the adult probation department?

74% (181) Yes 10% (25) No 16% (39) NA

Comments: *"Those who pay the bill should have a say in what it is"; "district & county judges, state attorneys and several defense attorneys should constitute a board to oversee the department."*

30. Do you favor: (Check all applicable and rate preference beginning with 1 as highest priority)

- 8 a. A statewide adult probation system under the authority of the executive branch
- 9 b. A combined adult parole adult probation system within the executive branch
- 6 c. A State adult probation system under the authority of the judicial branch
- 1 d. Probation services under local judicial control, with a State service center to promote standards and uniformity
- 4 e. Probation departments operated by county rather than by judicial district
- 7 f. State subsidy of probation departments, based upon district population
- 2 g. State subsidy based upon the number of probationers under care of probation department
- 10 h. State subsidy with State authority to withhold monies not being used for recommended programs

(contd. next page)

Q3-000
County Judges

30. Contd.

- 5 i. State subsidy without State control over usage
- 3 j. No change in present statutes or authority concerning adult probation
- k. Other:

31. What percentage of offenders do you consider likely to be corrected/rehabilitated through probation even without the services of a probation department?

<u>5%</u> (13) None	<u>14%</u> (35) 31-50%
@7%	@18%
<u>27%</u> (67) 1-10%	<u>7%</u> (17) 51-70%
@34%	@9%
<u>24%</u> (58) 11-30%	<u>2%</u> (6) More than 70%
@29%	@3%
	<u>20%</u> (49) NA

Comments: "About the same number that are corrected by a poor system." But, there is "no utility in 'probation' without probation services."

32. Do you generally revoke probation under admissable evidence for:
(Check all applicable.)

- 46% (113) Reporting violations
- 63% (155) Another county level misdemeanor
- 44% (109) Absconding
- 12% (29) Failure to maintain suitable employment
- 52% (127) Nonpayment of ordered monies
- 41% (100) Drunk charges
- 36% (88) Non-support of family
- 58% (143) Failure to comply with special conditions
- 4% (10) None of these

Comments: Each case rests on its own merits. A common comment was "we seldom or never revoke."

Q3-000
County Judges

33. Do you favor a standard system of intrastate jurisdictional transfer of probationers:

a. When returning from your jurisdiction to their permanent home jurisdiction?

80% (195) Yes 6% (16) No 14% (34) NA

b. When they have allegedly violated conditions of probation in another jurisdiction?

70% (172) Yes 10% (24) No 20% (49) NA
88% 12%

Comments: *The probation requirements should follow the probationers.*

34. Please list your major concerns regarding probation services, both within your jurisdiction and throughout the State.

- Caseloads must be manageable and staffing more adequate; conditions of probation should be enforced.
- The cost of maintaining a good probation department is a concern, because of the many demands upon county tax money. Adult probation is a state function under control of state officials (District Judges), under state legislation and should be financed by the state. We need a statewide program.
- The present system is preferable to a "more cumbersome, computerized program with more bureaucrats than probationers."
- Need uniform system, conditions, application sheets, fines, cost of court throughout the state.
- Misdemeanants should be supervised.
- County Judges should be better informed on laws of probation.
- Need cooperation among all involved in CJ system.
- There is lack of coordination between authority over expenditures and authority charged with providing funds.
- Many probation departments are only collection agencies, providing little counseling.
- "Probation doesn't cost - it pays." The public should be informed of this.

Q3-000
County Judges

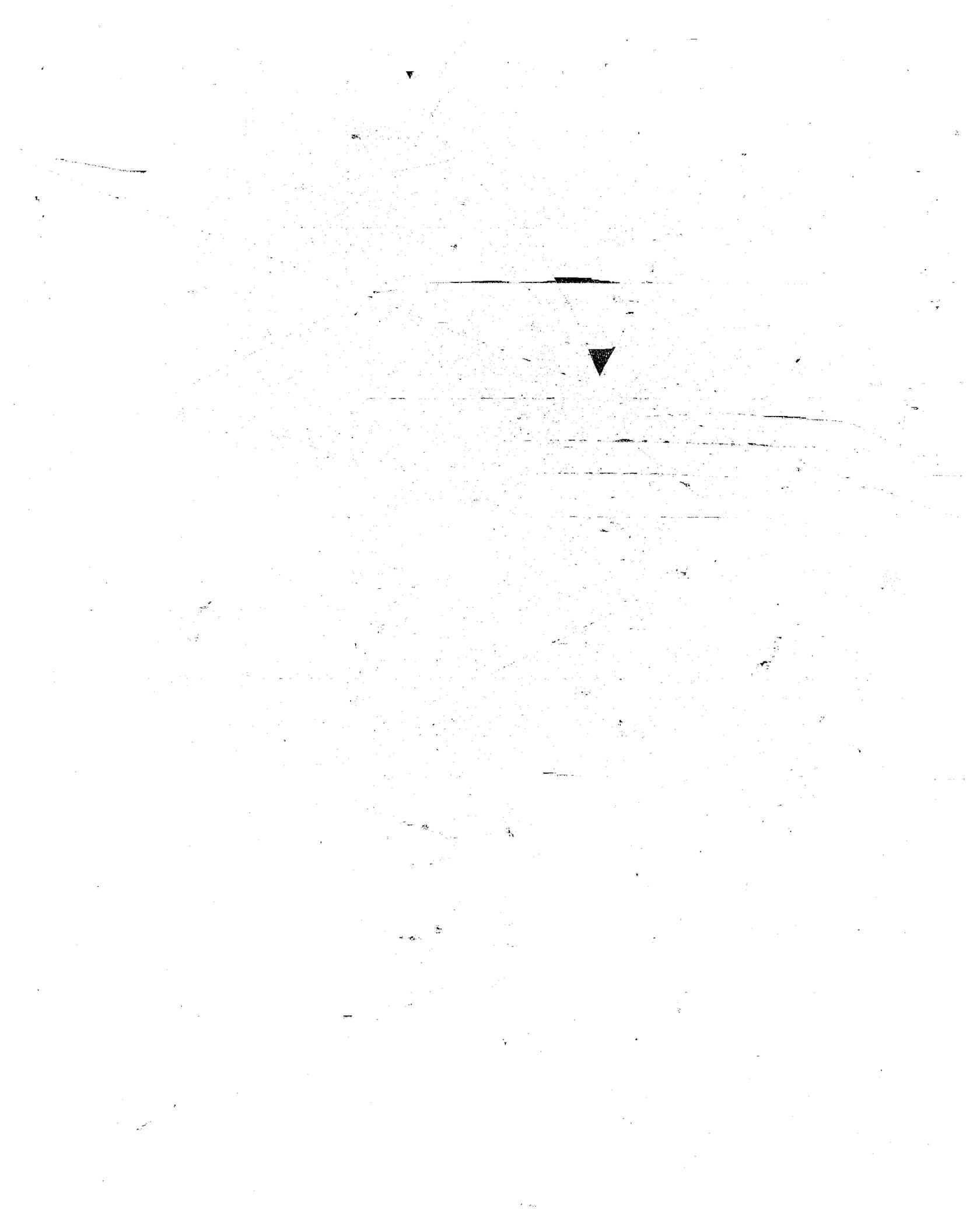
35. Have you designated any of the following to act as part-time probation officer or supervisor in your county? (Check all applicable.)

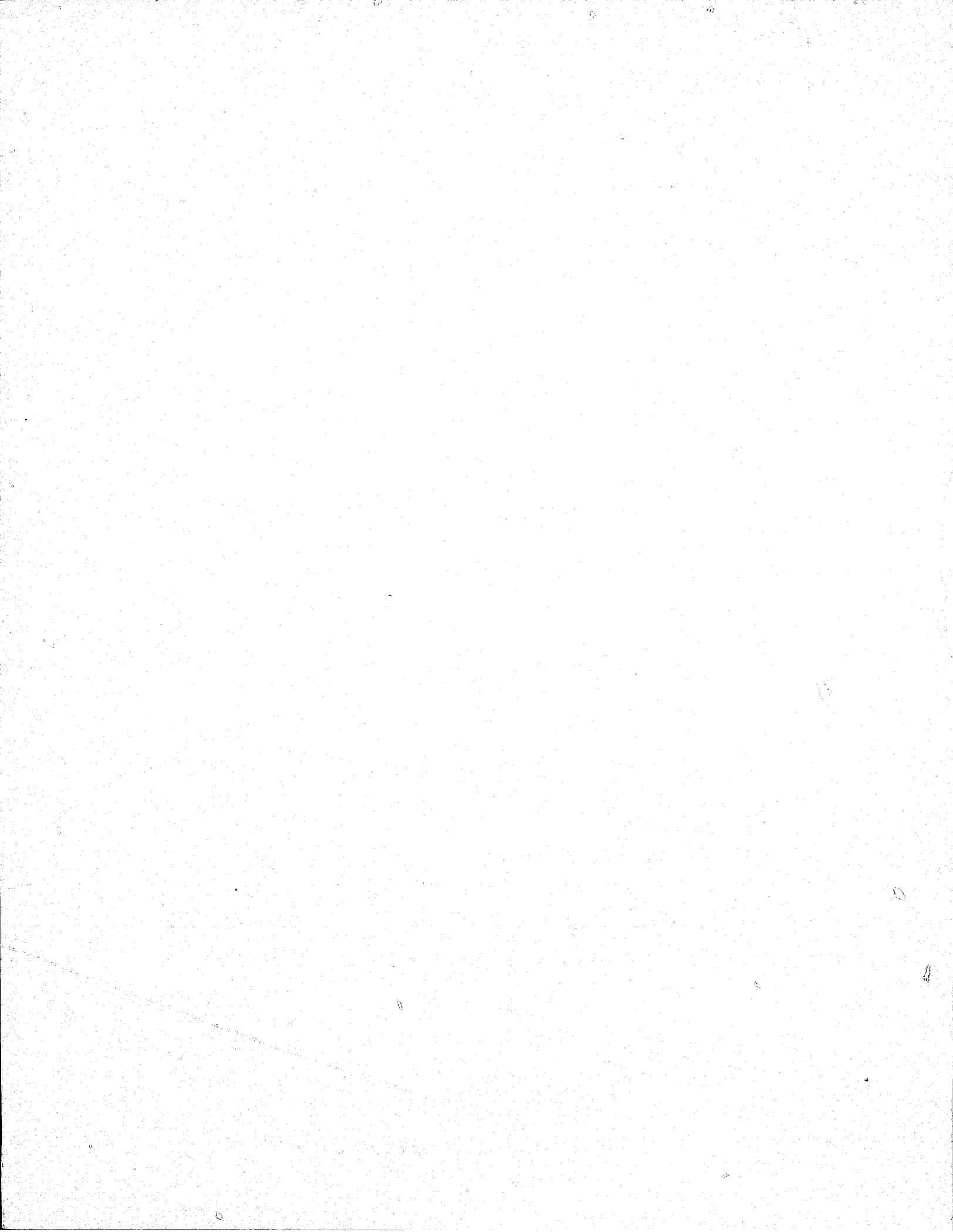
<u>2% (4)</u>	Sheriff	<u>---</u>	Texas Ranger
<u>1% (3)</u>	Deputy Sheriff	<u>---</u>	Highway patrol officer
<u>---</u>	Constable	<u>---</u>	Other peace officer:
<u>---</u>	Deputy constable	<u>---</u>	Prosecuting attorney
<u>---</u>	Police officer	<u>2% (4)</u>	Other:
		<u>5% (11)</u>	Total

36. If you order probation fees in any cases, please describe what use is made of the fees and what accountability is provided.

NA







316 Distributed

145 Returned Completed (46% return rate)

Questionnaire 5 depicts the views of prosecutors concerning probation, local services and practices, and administrative and fiscal control, diversion, pre-trial release and personal bond, plea bargaining, sentencing, revocation, fees and fines and needed action. It was sent to members of the Texas District and County Attorneys Association and returned for processing, with staff following up, during August and September, 1976. Survey results represent 95 counties.

Since the format in which questions and responses are presented here conforms to that for district and county judges, and has been explained already, nothing further needs to be said here. Comments are again provided which expand upon and help interpret statistics compiled.

COUNTY ATTORNEY: 57% (83)

DISTRICT ATTORNEY: 43% (62)
(including criminal D.A.)

COUNTY:

DISTRICT:

1. Is there a formally established probation department serving your jurisdiction?

92% (134) Yes 8% (11) No*

*If not, please answer the following question and then skip to question #4:

Do you believe a formally established probation department would benefit the judicial process and the community?

14% (20) Yes 1% (2) No 85% (123) NA

Comments: *Commentary reflects belief in probation's usefulness, lack of misdemeanor probation even when felony probation is available.*

2. Does the probation department have sufficient staff to effectively carry out its responsibilities?

50% (73) Yes 36% (52) No 14% (20) NA

Comments: *Caseloads are too high for the number of staff on geographic area; this reduces probation to mere paper work. Also, adult and juvenile services are not separated.*

3. Does the probation department have adequate facilities and equipment to effectively carry out its responsibilities?

59% (86) Yes 23% (33) No 18% (26) NA

Comments: *Space, equipment, and privacy are seen as problems. Adequate staff would create additional space problem in some instances.*

4. How would you rate the effectiveness of adult probation as a method of correction, compared to incarceration?

17% (24) More effective in almost all cases
@21%

45% (65) More effective in some cases
57%

8% (12) More effective in a few cases
@17%

3% (4) Less effective in some cases
@3%

5% (8) Less effective in almost all cases
@7%

22% (32) NA

5. What percentage of offenders do you consider likely to be corrected/rehabilitated through probation even without the services of a probation department?

5% (7) None

21% (30) 31-50%

27% (39) 1-10%

10% (14) 51-70%

30% (43) 11-30%

5% (7) More than 70%

3% (5) NA

Comments: *Some feeling exists that the shock of arrest and confrontation with judicial process suffices to discourage further offenses, but for the most part comments argue the greater efficacy of probation services, at least where staff works effectively. Some felt unsupervised probation to be wholly ineffective.*

6. What do you consider to be a probation officer's principal role as an officer of the court?

a. *Advice and investigation for the court before sentencing.*

b. *Personal supervision and counseling for the offender.*

c. *Aid for the probationer with employment, communication, other service needs. But the majority do not recognize a preventive function in probation; surveillance and reporting of violations are all.*

7. What academic and professional qualifications do you feel one should have to qualify as an adult probation officer?

72% (105) As now required in Section 10, Article 42.12, CCP

18% (26) Higher than now required*

5% (7) Lower than now required*

5% (7) NA

*Comments: *Disagreement among commentators about level of education required; although college degree generally desirable and management experience is a plus - some sense that "the most important qualifications cannot be shown by degrees or papers." Quality staff calls for more monies than are available. Continued formal training is invaluable.*

8. Should there be a standard minimum salary for beginning adult probation officers?

59% (86) Yes* 37% (53) No 4% (6) NA

*If yes, what annual salary would you recommend?

Mean \$11,810 Median \$11,944 Range \$7,000-\$25,000
Salary most often recommended \$12,000

Comments: *Necessary "to get qualified people."*

9. Is the case load of 75 cases per probation officer established in Section 10, Article 42.12, CCP:

4% (6) Much too high?

23% (34) Somewhat too high?

52% (76) About the right number?

---- Somewhat too low?

9% (13) Much too low?

11% (16) NA

Comments: *For actual rehabilitative services, many deem 75, as an absolute, too high. Case load must be balanced by the geographic territory covered and differing needs of probationers.*

Q5-000
Prosecutors

10. Should a probation officer carry a gun?

44% (64) Yes

51% (74) No

5% (7) NA

Comments: *Those not rejecting the notion entirely tend to respond that it should be possible in exceptional circumstances; others consider a gun to follow from the probation officer's law enforcement capacity. Anyone handling a gun should be trained and qualified to do so.*

11. Would you favor combining Articles 42.12 and 42.13, CCP, to cover all standards, procedures, qualifications, authorities, etc., concerning probation?

63% (92) Yes

26% (38) No

10% (15) NA

Comments: *Simplification seems attractive to most, but others understand different purposes in misdemeanor and felony probation and feel these differences should be reflected in separate standards.*

12. Do you favor: (Rate preference beginning with (1) as highest priority)

- 8 a. A statewide adult probation system under the authority of the executive branch
- 9 b. A combined adult parole/adult probation system within the executive branch
- 5 c. A state adult probation system under the authority of the judicial branch
- 1 d. Probation services under local judicial control, with a state service center to promote standards and uniformity
- 2 e. Probation departments operated by county rather than by judicial district
- 3 f. State subsidy of probation departments, based upon district population
- 4 g. State subsidy based upon the number of probationers under care of the probation department
- 6 h. State subsidy with State authority to withhold monies not being used for recommended programs
- 10 i. State subsidy without State control over usage
- 7 j. No change in present statutes or authority concerning adult probation
- ___ k. Other

Q5-000
Prosecutors

13. Do you favor the use of the deferred proceedings as set out in Section 3d(2), Article 42.12, CCP?

67% (97) Yes 28% (40) No 5% (8) NA

Comments: *Seen as useful in special cases, and analogous to diversion. However, also seen as promoting lack of uniformity in punishments or as an invasion by the judiciary of the executive's right not to prosecute. Indicators are for limited use.*

Note: *Diversion is a community or local judicial procedure through which an accused person is treated or corrected before or in lieu of going to trial. Diversion might include drug treatment, alcohol treatment, referral to MHMR, vocational training, etc.*

14. Would you favor a comprehensive diversion program in your area?

61% (89) Yes 33% (48) No 6% (8) NA

Comments: *Diversion advocated or used where 'treatment preferable to punishment,' e.g. drug and alcohol cases, misdemeanors. The court should be able to enforce the program and grant diversion on a case by case basis. Money a problem to providing a broad range of programs.*

15. If a diversion program existed within your jurisdiction, in how many cases do you think you would make use of it?

<u>11% (16)</u> None	<u>18% (26)</u> 21-30%
<u>25% (36)</u> 1-10%	<u>3% (4)</u> 31-50%
<u>34% (49)</u> 11-20%	<u>2% (3)</u> More than 50%
	<u>7% (11)</u> NA

Comments: *No consensus in comments. Diversion most appropriate to alcohol and drug problem cases.*

16. What office should be responsible for the administration of diversion programs?

<u>59% (85)</u> Probation Department	<u>16% (23)</u> Court
<u>3% (5)</u> Sheriff's Office	<u>5% (8)</u> Other
<u>25% (37)</u> District/County Attorney's Office	

Comments: *A joint effort would be needed, with probation office administering programs for individuals diverted by prosecutor.*

Q5-000
Prosecutors

17. What office should be responsible for the final decision to place an individual in a diversion program? .

10% (15) Probation Department

47% (68) District/County Attorney's Office

4% (6) Sheriff's Office

43% (62) Court

4% (6) Other

Comments: Again, although many respondents maintain diversion must be an executive decision, comments recognize that court, probation and prosecution interact and affect the decision. Sheriff or prosecutor may divert at their level, before court sees case. An extra-judicial Review Board is recommended, consisting of prosecutor, court judge, and probation officer.

18. If a diversion program were established within your area, would you favor: (Check all applicable)

30% (43) a. Written criteria for determining eligibility for diversion?

57% (83) b. Individual cases to be considered on their own merits without uniform criteria?

52% (76) c. Required court approval of proposed diversion agreements?

7% (10) d. Other policies:

Comments: Need room for discretion in the decision to divert, although eligibility could be limited. Also need statewide record system of those diverted.

19. Should all diversion programs require supervision of clients?

79% (114) Yes

16% (23) No

5% (8) NA

Comments: Diversion requires some degree of control over the accused.

Q5-000
Prosecutors

20. Should a standard basic set of restrictions be required of all clients in a diversion program?

66% (96) Yes* 28% (41) No 5% (8) NA

*Suggested rules or restrictions: *Diversity of responses, from same restrictions applicable to probationer (42.12, sec. 6, CCP) to broader guidelines permitting prosecutorial discretion.*

21. At what stage should an offender be considered for diversion?

12% (18) At time of arrest

15% (22) At time bond is to be posted

63% (91) After indictment (or arraignment in county cases)

12% (17) Other:

22. Should a background investigation be required before a decision is made to place any individual in a diversion program?

92% (134) Yes* 2% (3) No 5% (8) NA

*Should the investigation include testing, if needed?

81% (117) Yes 8% (12) No 11% (16) NA

Comments: *An investigation should determine eligibility, with testing as needed and permitted by money.*

23. Please comment on the impact which a comprehensive diversion program might have upon the criminal justice system in your jurisdiction (for example, impact on crime rate, court docket, work load for prosecutor's office, etc.).

Responses were lengthy and disparate. Consensus that emerges, despite some skepticism, is that comprehensive diversion would enhance prosecutorial attention and time for 'real' criminals, or repeat offenders, even though it would effect a statistical increase in prosecutor's caseload (number cases pending trial). It is a sound means for alleviating the court docket. Diversion especially appropriate to the youthful offender, and would probably strengthen the administration of formal probation. Fewer respondents were sanguine about its favorable impact on the crime rate.

A state record system of those diverted would help to inform later court decisions about a defendant.

Q5-000

Prosecutors

24. What do you think should be done to give law enforcement officers better guidelines to assure probable cause before arrest or preferring charges?

Education and effort would enhance cooperation between components of the C. J. process. Mandatory in-service training and/or incentives to officers for continuing education and strengthening professionalism are promoted. Prosecutors would gladly and regularly participate in local/regional clinics. Guidelines should not be further complicated.

Other mechanics to assure probable cause: prosecutorial-law enforcement liasons; a pocket-size ready reference book; case presentation to prosecutor before arrest except where suspect might escape.

25. If probable cause is present, do you believe an arrested person should be required to agree to certain conditions before being released on bond?

74% (107) Yes* 23% (33) No 3% (5) NA

*Should these conditions include limited surveillance or supervision?

58% (84) Yes 19% (28) No 23% (33) NA
@75% @25%

Comments: Constitutional rights are at issue and many interpret such conditions as "restrictions on the constitutional right to make bond" and therefore unconstitutional. This may be a good idea, but it could never work without abuse. Only reasonable conditions pertain to residence and attorney.

26. Do you have a pretrial release or personal bond program within your area?

37% (54) Yes 58% (84) No 5% (7) NA

27. If yes, what office administers the program?

3% (4) Probation Department
@8%
5% (7) County District Attorney's Office
@13%
14% (20) Sheriff's Office
@38%
10% (14) Court
@27%
5% (7) Other:
@13%
64% (93) NA

Q5-000
Prosecutors

28. If no, would you approve of the establishment of such a program, as authorized in Article 2372 p-2, VCS?

44% (64) Yes 19% (28) No 36% (53) NA
@70% @30%

29. In what percentage of cases is the pretrial release/personal bond program used (or would you use such a program if it were established)?

<u>7% (10)</u> None	<u>16% (23)</u> 21-30%
<u>24% (35)</u> 1-10%	<u>12% (17)</u> 31-50%
<u>16% (23)</u> 11-20%	<u>11% (16)</u> More than 50%
	<u>14% (21)</u> NA

30. What office do you feel should administer such programs?

23% (34) Probation Department

19% (27) Prosecution

36% (52) Sheriff's Office

22% (32) Court

8% (12) Other:

31. Would you favor legislation to reform the bonding system in Texas?

82% (119) Yes 12% (18) No 5% (8) NA

Comments: Allow greater latitude to Article 2382 p-2, especially by removing population restrictions in its application (only counties of 124,000 population are now covered). Establish standards for bond setting and release, making bonds easier to get in most cases, and perhaps restricting bond in defined cases where threat to the community is clear. Remove bonding from Sheriff's authority; get attorneys out of the business, too.

32. Would you favor the establishment of statewide guidelines for plea bargaining?

32% (46) Yes 67% (97) No 1% (2) NA

Comments: Preponderant sentiment is that guidelines to advise, but not necessarily restrict, discretion would serve to lesson arbitrariness on the part of prosecutor. However respondents seek to preserve latitude in plea bargaining. Through it the prosecutor

Q5-000
Prosecutors

32. Contd.

represents local public sentiment about punishments. It is suggested that plea bargaining be brought "above the tables," being legislated as a formal part of trial process in the courtroom.

33. Do you favor the use of the detention condition in addition to other conditions, as set out in Section 6b(a), Article 42.12. CCP?

82% (119) Yes 10% (14) No 8% (12) NA

Comments: Detention conditions seems to be favored, with qualifications. Some suggest it be extended to misdemeanor probation too, and that length of detention be entirely discretionary.

34. Would you approve of legislation which would place sentencing solely at the discretion of the court?

41% (60) Yes 54% (79) No 4% (6) NA

Comments: The suggestion merits study and discussion. Prosecutors agree that greater inequities are perpetrated through jury sentencing, and that better uniformity of sentencing is desirable. Some see this reform as absolutely necessary. Others, however, adhere to the belief that the community should be directly represented in sentencing.

35. Would you approve of legislation which would not limit the conditions the court may impose when probation is granted by a jury?

75% (109) Yes 22% (32) No 3% (4) NA

Comments: The court, with greater wisdom and expertise in sentencing, deserves to set special conditions where required by particular needs of a case. Some statutory restrictions on the court might be advisable.

36. Do you favor early termination of probated cases when recommended by the department?

77% (112) Yes 21% (30) No 2% (3) NA

Comments: Termination should only follow upon a joint recommendation by probation and prosecution, after careful weighing of merits of the case. Terminated probation should remain admissible as part of a criminal record. This procedure gives probationer more incentive to cooperate.

Q5-000
Prosecutors

37. Should some formal system of follow-up evaluation be instituted for probationers after termination of probation?

39% (56) Yes 58% (84) No 3% (5) NA

Comments: *Time and money would be constraints upon such a system, which would be useful if it revealed the efficacy of probation. Would this be practical? Would it be an inappropriate intrusion upon the former probationer?*

38. Should a probationer's records be expunged upon termination of probation other than revocation?

25% (36) Yes 72% (104) No 3% (5) NA

Comments: *Since there is legally no final conviction, this is a permissible incentive to the probationer to start anew. However, expungement leaves no means for determining whether dependant is entitled to probation. A time limit (2 years, 5 years) could be a compromise.*

39. What agency should be responsible for serving warrants for adult probation violations and transporting probationers under arrest for violations?

26% (38) Probation Department

30% (44) Police Department

83% (121) Sheriff's Office

5% (7) Other:

Comments: *This is a law enforcement function; responses reflect interpretation of the functions of the probation department.*

40. How often are probationers brought back to this jurisdiction for motion to revoke hearings?

a. District Court

2% (3) Never
@3%

54% (79) 1-25% of the time
@77%

5% (8) 26-50% of the time
@7%

5% (7) 51-75% of the time
@6%

10% (14) More than 75%
@13% of the time

23% (34) NA

Q5-000
Prosecutors

40. b. County Court

8% (12) Never
@13%
44% (64) 1-25% of the time
@71%
5% (7) 26-50% of the time
@8%
3% (4) 51-75% of the time
@4%
2% (3) More than 75% of the time
@3%
38% (55) NA

41. Does the probationer's distance from this jurisdiction when apprehended affect the decision to bring a probation violator back for hearing?

57% (82) Yes 39% (56) No 5% (7) NA

Comments: *Money talks: practical considerations (costs to the county) are weighed against the circumstances and seriousness of this offense, and may predominate.*

42. Do you favor a standard system of intrastate jurisdictional transfer of probationers when they allegedly have violated conditions of probation in another jurisdiction?

88% (128) Yes 6% (9) No 5% (8) NA

Comments: *It would be more practical and less costly for significant cases.*

43. If you determine that a condition of probation has been violated do you generally recommend a motion to revoke if the violation was; (Check all applicable)

58% (84) Reporting violation?

Non-payment of ordered monies:

63% (91) a. Fines?

55% (80) b. Costs?

70% (101) c. Restitution?

45% (65) d. Probation fees?

(Contd. next page)

43. Contd.

67% (97) Violation of special orders, such as drinking, failure to accept or continue in drug or alcohol treatment, curfew, etc.

85% (123) Jailable misdemeanor violations?

21% (30) Non-jailable misdemeanor violations?

61% (89) Absconding?

44% (64) Non-support of dependant?

Comments: Recommendations may rely upon discretion of the probation officer, and for most respondents, follow upon a combination of violations listed. Some indicate they will revoke when informed of any single violation; few indicated very strict, down the line enforcement of all conditions.

44. What agency should be responsible for collecting the following monies in probated cases? (Check one agency for each category)

<u>AGENCY</u>	<u>PROBATION FEES</u>	<u>COURT COSTS</u>	<u>RESTITUTION</u>	<u>FINES</u>
Probation Department	81%	36%	61%	37%
County/District Clerk	12%	50%	17%	39%
District/County Attorney	---	---	9%	---
Sheriff's Office	---	5%	3%	10%
Court	---	---	---	5%
Other (List)	---	---	---	---
NA	4%	6%	6%	7%

45. Who, in your district or county, is generally responsible for reporting failure of the defendant to pay ordered fines, fees, court costs, or restitution?

a. District Court

<u>2% (3)</u> @3%	Court	<u>5% (7)</u> @7%	Sheriff's Office
<u>48% (70)</u> @75%	Probation Department	<u>8% (22)</u> @12%	Clerk
<u>1% (2)</u> @2%	District Attorney		Other:
		<u>36% (52)</u>	NA

Q5-000
Prosecutors

45. Contd.
b. County Court

<u>2% (3)</u> Court	<u>8% (11)</u> Sheriff's Office
@3%	@12%
<u>39% (56)</u> Probation Department	<u>9% (13)</u> Clerk
@64%	@15%
<u>3% (4)</u> District Attorney	<u>1% (1)</u> Other:
@4%	@1%
	<u>39% (57)</u> NA

46. Who is generally responsible for deciding to issue a capias profine (fine and cost)?

a. District Court

<u>18% (26)</u> Court	<u>4% (6)</u> Sheriff's Office
@28%	@6%
<u>11% (16)</u> Probation Department	<u>9% (13)</u> Clerk
@17%	@14%
<u>22% (32)</u> District Attorney	<u>36% (52)</u> Other/NA
@34%	

b. County Court

<u>19% (28)</u> Court	<u>4% (6)</u> Sheriff's Office
@30%	@6%
<u>6% (9)</u> Probation Department	<u>12% (18)</u> Clerk
@10%	@20%
<u>21% (30)</u> County Attorney	<u>1% (1)</u> Other
@33%	@1%
	<u>37% (53)</u> NA

47. Do you feel that probation departments should take on the role of coordinating community resources in order to establish a comprehensive community-based corrections system?

61% (88) Yes 28% (40) No 12% (17) NA

Comments: This responsibility should be centralized, and the probation department is a likely point, although its capacity (time and manpower) to do so is questioned, and the breadth of responsibilities needs to be defined.

48. How does the community as a whole regard the idea of probation and the services provided by the probation department?

42% (61) favorably

43% (62) unfavorably

15% (22) NA

Each community's attitude is influenced by the degree of its ignorance about probation; lack of awareness breeds apathy and worse.

49. Should anything be done to change the community's image of probation/community-based corrections in Texas?

70% (101) Yes
@81%

16% (23) No
@18%

14% (21) NA

Comments: 1) Improve programming to show probation's effectiveness as a rehabilitative measure, and 2) conduct an intensive public education campaign covering the purposes and functions of probation/community-based corrections.

50. Do you consider the probation system in your area (if one exists) to be specifically oriented toward reducing crime/recidivism?

59% (85) Yes
@65%

32% (46) No
@35%

10% (14) NA

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

51. What major constraints work against the accomplishment of that goal?

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

52. What steps could be taken at the local level to neutralize those constraints? At the State level?

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

Q5-000
Prosecutors

53. Would you consider some joint training programs for prosecutors and probation officers of:

34% (50) Little benefit to the judicial process?

58% (84) Much benefit to the judicial process:

8% (11) NA

Comments: *Better communications and mutual understanding work towards better cooperation in fulfilling our responsibilities to society. Some jurisdictions enjoy this now.*

54. Would you consider some joint training programs for prosecutors, police and sheriff's officers of:

20% (29) Little benefit to the judicial process?

74% (108) Much benefit to the judicial process?

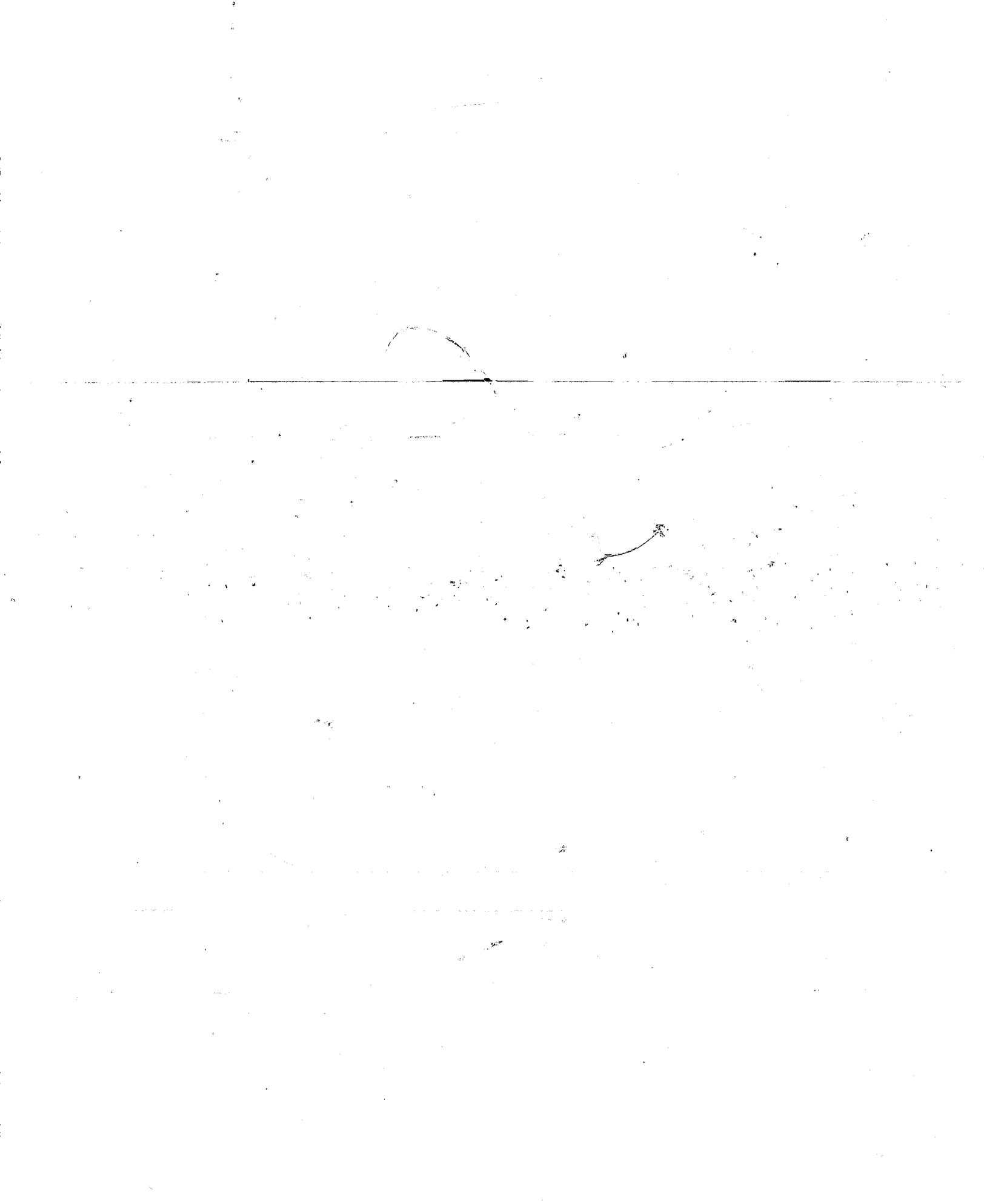
5% (8) NA

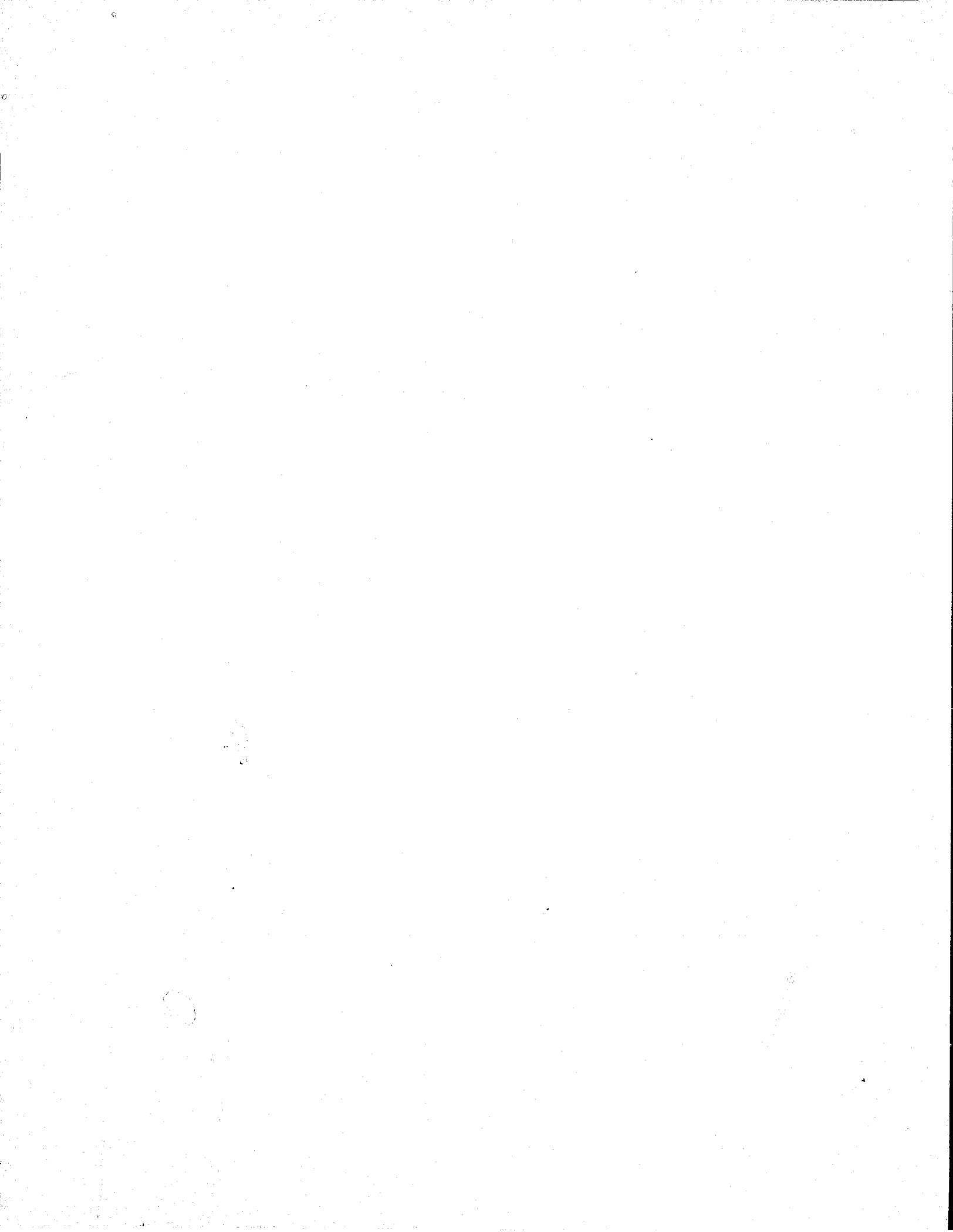
Comments: *Same as No. 53.*

55. Please describe your major concerns, criticisms, or interests concerning probation services within your area.

Most agree probation is probably the most effective tool in corrections available to the prosecutors and courts today. Prosecutors are concerned over: number and qualifications of probation officers; unrealistic caseload; enforcement of probation conditions. Improvement is needed in program development/utilization for and by the offender; better informed sentencing through presentence reports; education of the public and law enforcement alike that everyone can and should not be locked up. Neither should probation be abused as a screening device. Uniform systems and standards for sentencing and treatment are highly desirable; also evaluation of probation's effect on the criminal justice process and the community.

Q5-000
Prosecutors





613 Distributed

109 Returned Complet(18% return rate)

Questionnaire 6 for criminal defense lawyers closely parallels that submitted to prosecutors. It was mailed out to appropriate special interest groups of the State Bar (The Criminal Defense Lawyer's Association, certified criminal law specialists, participants in the Counsel for Indigent Parolees Project, and faculty members of the Criminal Defense Lawyers Project). No follow-up was possible.

It is interesting to note that although a very low percentage of those requested to participate returned the survey form, defense lawyers were the most opinionated group surveyed, and supplied answers to almost every question. Attorneys responding practice criminal law in 94 counties across the state.

The same format outlined earlier has been followed.

CITY:

YEARS OF PRACTICE:

COUNTIES OF PRACTICE:

1. Is there a formally established probation department serving the county(ies) in which you practice criminal law?

100% (109) Yes 0% (0) No

*If not, please answer the following question and then skip to question #6:

Do you believe a formally established probation department would benefit:

--- The criminal justice system?
--- The community?
--- Your clients?

2. Does the probation department do an adequate job in: (Check if response is yes.)

63% (69) Supervising offenders?

27% (29) Rehabilitating offenders?

38% (41) Using community resources to help offenders?

9% (10) Other:

Comments: *Some problems are poorly motivated staff, excessive caseloads. Rehabilitation follows second unto supervision.*

3. If the probation department is not functioning adequately, what are the major causes of its inadequacy? (Check all applicable.)

50% (55) Lack of manpower

30% (33) Inadequately trained manpower

27% (29) Lack of understanding of the function of probation

26% (28) Lack of community resources

17% (19) Failure to use existing community resources

36% (39) Too law-enforcement oriented

2% (2) Not law-enforcement oriented enough

7% (8) Other:

Q6-000
Criminal Defense Attorneys

(3) Comments: *Too much 'politics' involved, too many offenders placed on probation.*

4. How would you evaluate the degree of cooperation between probation department staff and other officers of the court?

<u>1% (1)</u> Nonexistent	<u>65% (71)</u> Good
<u>4% (4)</u> Poor	<u>21% (23)</u> Excellent
	<u>9% (10)</u> NA

Comments: *Probation staff do not always show same degree or spirit of cooperation with defense counsel as with court and prosecutor.*

5. What could be done to improve the working relationships among these groups?

Better communication may be a function of concerned qualified people, understanding their separate (and corporate) purposes. More detachment from prosecuting attorney by probation staff called for. But also more positive attitude from defense attorneys regarding rehabilitation. Include probation staff in plea bargaining.

6. How often do you consult with the probation department before plea bargaining on a case?

<u>31% (34)</u> Never	<u>11% (12)</u> Frequently
<u>29% (32)</u> Rarely	<u>9% (10)</u> Almost always
<u>19% (21)</u> Occasionally	

Comments: *Probation department may be used to recommend specialized treatment agency. Otherwise plea bargaining seldom structured for this - and probation staff may be reluctant to share their information.*

7. What do you consider to be a probation officer's principal role as an officer of the court?

- Make objective assessment of an accused's rehabilitative potential and so advise the court.*
- Rehabilitation (counseling, referral, assistance to probationer).*
- Supervision for the benefit of both state and defendant.*

8. Do you believe that probation is an effective method of correcting offenders?

87% (95) Yes 11% (12) No 2% (2) NA

Comments: *It is effective when enforced through proper handling; this means more and better-trained manpower.*

9. Do you believe that probation is now used as an alternative to incarceration:

16% (17) In too many cases?

49% (54) In about the right number of cases?

33% (36) In too few cases?

2% (2) NA

Comments: *Probation may be encouraged by prosecutor as a function of the strength/weakness of his case, not a function of offender's merits.*

10. What percentage of offenders do you consider likely to be corrected/rehabilitated through probation even without the services of a probation department?

2% (2) None

22% (24) 31-50%

24% (26) 1-10%

10% (11) 51-70%

26% (28) 11-30%

5% (6) More than 70%

11% (12) NA

Comments: *Some will be helped in spite of our system.*

11. What academic and professional qualifications do you feel one should have to qualify as an adult probation officer?

48% (52) As now required in Section 10, Article 42.12, CCP

38% (41) Higher than now required*

4% (4) Lower than now required* 11% (12) NA

*Comments: *Standards are important, but the practicality of funding precludes many applicants.*

Q6-000
Defense Attorneys

12. Should there be a standard minimum salary for beginning adult probation officers?

66% (72) Yes* 28% (31) No 5% (6) NA

*If yes, what annual salary would you recommend? Mean \$12,100
Median \$12,000. Most frequent response given \$12,000.

Comments: Salaries should be competitive with education, business. Incentives should be built in without necessity of promotion or title change.

13. Is the case load of 75 cases per probation officer established in Section 10, Article 42.2, CCP:

11% (12) Much too high?

28% (31) Somewhat too high?

41% (45) About the right number?

9% (10) Somewhat too low?

1% (1) Much too low?

9% (10) NA

Comments: Casework should allow for personal contact with probationers, but probationers' needs for this vary.

14. Should a probation officer carry a gun?

23% (25) Yes 74% (81) No 3% (3) NA

Comments: Rehabilitation should take priority over law enforcement. Even in special circumstances it is preferable for some other certified peace officer to offer the protection needed.

15. Would you favor combining Articles 42.12 and 42.13, CCP, to cover all standards, procedures, qualifications, authorities, etc., concerning probation?

55% (60) Yes 26% (28) No 19% (21) NA

Comments: Misdemeanor probation may deserve greater latitude. Does not seem to be a high priority item.

16. Do you favor: (Rate preference beginning with (1) as highest priority.)

- 10 a. A Statewide adult probation system under the authority of the executive branch
- 9 b. A combined adult parole/adult probation system within the executive branch
- 3 c. A state adult probation system under the authority of the judicial branch
- 1 d. Probation services under local judicial control, with a state service center to promote standards and uniformity
- 6 e. Probation departments operated by county rather than by judicial district
- 4 f. State subsidy of probation departments, based upon district population
- 2 g. State subsidy based upon the number of probationers under care of the probation department
- 8 h. State subsidy with State authority to withhold monies not being used for recommended programs
- 5 i. State subsidy without State control over usage
- 7 j. No change in present statutes or authority concerning adult probation
- k. Other:

17. Do you favor the use of the deferred proceedings as set out in Section 3d(a), Article 42.12, CCP?

86% (94) Yes 8% (9) No 6% (5) NA

Comments: *Valuable alternative in meritorious cases.*

Note: Diversion is defined as any community or local judicial procedure through which an accused is treated or corrected prior to or in lieu of trial.

18. Would you favor a comprehensive diversion program in your area?

84% (92) Yes 12% (13) No 4% (4) NA

Comments: *Those with experience of diversion give it strong endorsement. Others point out the need for guidelines and limitations. It is not used often enough.*

19. What office should be responsible for the administration of diversion?

72% (79) Probation Department

11% (12) District/County Attorney's Office

1% (1) Sheriff's Office

10% (11) Other: *Independent agency*

Comments: Probation department is the most qualified and amenable, although it has its drawbacks. New, separate department given more support than tabulations indicate.

20. What office should be responsible for the final decision to place an individual in a diversion program?

26% (28) Probation Department

18% (20) District/County Attorney's Office

1% (1) Sheriff's Office

50% (55) Court

-- -- Other:

Comments: Division exists between those who see diversion as appropriate to judicial proceedings and those who prefer it to be independent. All should work together. An independent screening committee might be workable.

21. If a diversion program were established within your area, would you favor: (Check all applicable)

31% (34) a. Written criteria for determining eligibility for diversion?

61% (67) b. Individual cases to be considered on their own merits without uniform criteria?

49% (54) c. Required court approval of proposed diversion agreements?

3% (3) d. Other policies:

Comments: Generalized criteria with final determination made on a case-by-case basis.

22. Should all diversion programs require supervision of clients?

50% (55) Yes 42% (46) No 7% (8) NA

Comments: *Degree of supervision should vary according to needs.*

23. Should a standard basic set of restrictions be required of all clients in a diversion program?

51% (56) Yes 41% (45) No 7% (8) NA

*Suggested rules or restrictions: *Restrictions might be formulated similar to those outlined in 42.12, CCP; should perhaps be standardized.*

24. At what stage should an offender be considered for diversion?

18% (20) At time of arrest

18% (20) At time bond is to be posted

33% (36) After indictment (or arraignment in county cases)

17% (19) Other: *Anytime*

13% (14) NA

Comments: *Diversion should be possible at anytime. Decision should follow from investigation of defendant's background.*

25. Should an accused be represented by defense counsel before being considered for a diversion program?

84% (92) Yes 12% (13) No 4% (4) NA

Comments: *When 'due process' and rights of accused may be affected counsel should be available (although voluntary waiver should be possible).*

26. Please describe your assessment of the role of the defense attorney (whether retained or appointed) in a diversion program,

24% (26) Community protection 30% (33) Speedy disposition

80% (87) Client protection 5% (5) Delay in disposition

43% (47) Correction/treatment 6% (7) Other

Comments: *Protect the rights and interests of the client, then of the community.*

Q6-000
Defense Attorneys

27. Should a background investigation be required before a decision is made to place any individual in a diversion program?

92% (100) Yes * 4% (4) No 5% (5) NA

*Should the investigation include testing, if needed?

72% (79) Yes 14% (15) No 14% (15) NA

Comments: *Investigation would serve the same purpose it does prior to probation sentence - but may not be realistic for all cases.*

28. Please comment on the impact which a comprehensive diversion program might have upon the criminal justice system in your jurisdiction (for example, impact on crime rate, court docket, work load for prosecutor's office, etc.):

General consensus is that, whatever the impact on the crime rate, diversion would permit increased attention to serious cases and lighten the loads of law enforcement, prosecution and court alike, thereby strengthening the entire system. It would allow defense counsel "to do more for clients."

29. Do you believe a standard set of guidelines concerning probable cause should be developed for use by all law enforcement officers in making arrests and preferring charges?

72% (78) Yes 26% (28) No 3% (3) NA

Comments: *Reservations about its practicality, since guidelines are already available now, even if not used. However, if civil liability resulted when probable cause was ignored, better arrests would result.*

30. If probable cause is present, do you believe an arrested person should be required to agree to certain conditions before being released on bond?

49% (54) Yes* 47% (51) No 4% (4) NA

*Should these conditions include limited surveillance or supervision?

23% (25) Yes 45% (49) No 32% (35) NA.
@34% @66%

Comments: *Legality and utility of conditional release when presumed innocent are strongly questioned.*

Q6-000
Defense Attorneys

31. Do you have a pretrial release or personal bond program within your area?

70% (76) Yes 30% (33) No

32. If not, would you approve of the establishment of such a program, as authorized in Article 2372 p-2, VCS?

36% (39) Yes 3% (3) No 61% (67) NA
@93% @7%

Comments: NA

33. What office do you feel should administer such programs?

28% (31) Probation Department

3% (3) Prosecution

13% (14) Sheriff's office

38% (42) Court

19% (21) Other: *Separate, independent agency; legal aid or Bar Association*

Comments: NA

34. Would you favor legislation to reform the bonding system in Texas?

79% (86) Yes 16% (17) No 5% (6) NA

Comments: *Present system discriminates against the poor. Direction of reforms are various. Ten percent (10%) cash deposit system strongly favored.*

35. Would you favor the establishment of statewide guidelines for plea bargaining?

45% (49) Yes 51% (56) No 4% (4) NA

Comments: *Enormous disparity in responses: "Plea bargaining should be mandatory"; "plea bargaining should be abolished." Most comments reflect desire to preserve discretion - others lament nonuniformity and inequities.*

Q6-000
Defense Attorneys

36. Do you favor the requirement of presentence investigations prior to all sentencing by the court?

61% (66) Yes 35% (38) No 5% (5) NA

Comments: *Despite the time and costs, the court should possess all relevant information for sentencing, especially for felonies.*

37. Do you favor the use of the detention condition in addition to other conditions, as set out in Section 6b(a), Article 42.12, CCP?

49% (53) Yes 34% (37) No 17% (19) NA

Comments: *In appropriate cases. Should also be allowed in misdemeanor cases.*

38. Would you approve of legislation which would place sentencing solely at the discretion of the court?

19% (21) Yes 78% (85) No 3% (3) NA

Comments: *Attorneys seem to distrust the political and private pressures exerted on judges more than those extended through juries. Defendant should retain this choice.*

39. Would you approve of legislation which would not limit the conditions the court may impose when probation is granted by a jury?

27% (30) Yes 68% (74) No 5% (5) NA

Comments: *Present standards are sufficient. A few respondents feel judges should have some, but not unlimited, discretion.*

40. Do you favor early termination of probated cases when recommended by the probation department?

92% (100) Yes 5% (5) No 4% (4) NA

41. Should some formal system of followup evaluation be instituted for probationers after termination of probation?

38% (41) Yes 57% (62) No 5% (6) NA

Comments: *This might help assess the system's effectiveness. However, its burden and cost would likely outweigh its merits.*

Q6-000
Defense Attorneys

42. Should a probationer's records be expunged upon termination of probation other than revocation?

80% (87) Yes 16% (17) No 5% (5) NA

Comments: *After a fixed period of time, at least to the extent that arrest and conviction records are expunged.*

43. Do you favor a standard system of intrastate jurisdictional transfer of probationers when they allegedly have violated conditions of probation in another jurisdiction?

72% (78) Yes 18% (20) No 10% (11) NA

44. Do you favor "no recommendation pleas" before the court?

37% (40) Yes 55% (60) No 8% (9) NA

Comments: *Affirmative responses qualified by a consideration of particular circumstances and presentence reports.*

45. Do you feel that probation departments should take on the role of coordinating community resources in order to establish a comprehensive community-based corrections system?

74% (81) Yes 16% (18) No 9% (10) NA

Comments: *Resistance to question apparent. Good idea, but the budgeting consideration is acute.*

46. How does the community as a whole regard the idea of probation and the services provided by the probation department?

22% (24) Favorably

57% (62) Unfavorably 21% (23) NA

Comments: *Being poorly informed, the community's response varies from apathy or skepticism to occasional hostility. This would alter if the facts were presented.*

47. Should anything at all be done to change the community's image of probation/community-based corrections in Texas?

73% (80) Yes 9% (10) No 17% (19) NA

Comments: *Public relations and education are sorely needed, especially on the topic of probation's benefit and cost-savings to the community.*

48. Do you consider the probation system in your area (if one exists) to be specifically oriented toward reducing crime/recidivism?

49% (53) Yes 43% (47) No 8% (9) NA

Comments: *Although so oriented, a poverty of staff, training, money and adequate supervision all legislate against success.*

49. What major constraints work against the accomplishment of that goal?

See 48. Also public apathy and lack of local opportunities or resources.

50. What steps could be taken at the local level to neutralize those constraints? At the state level?

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

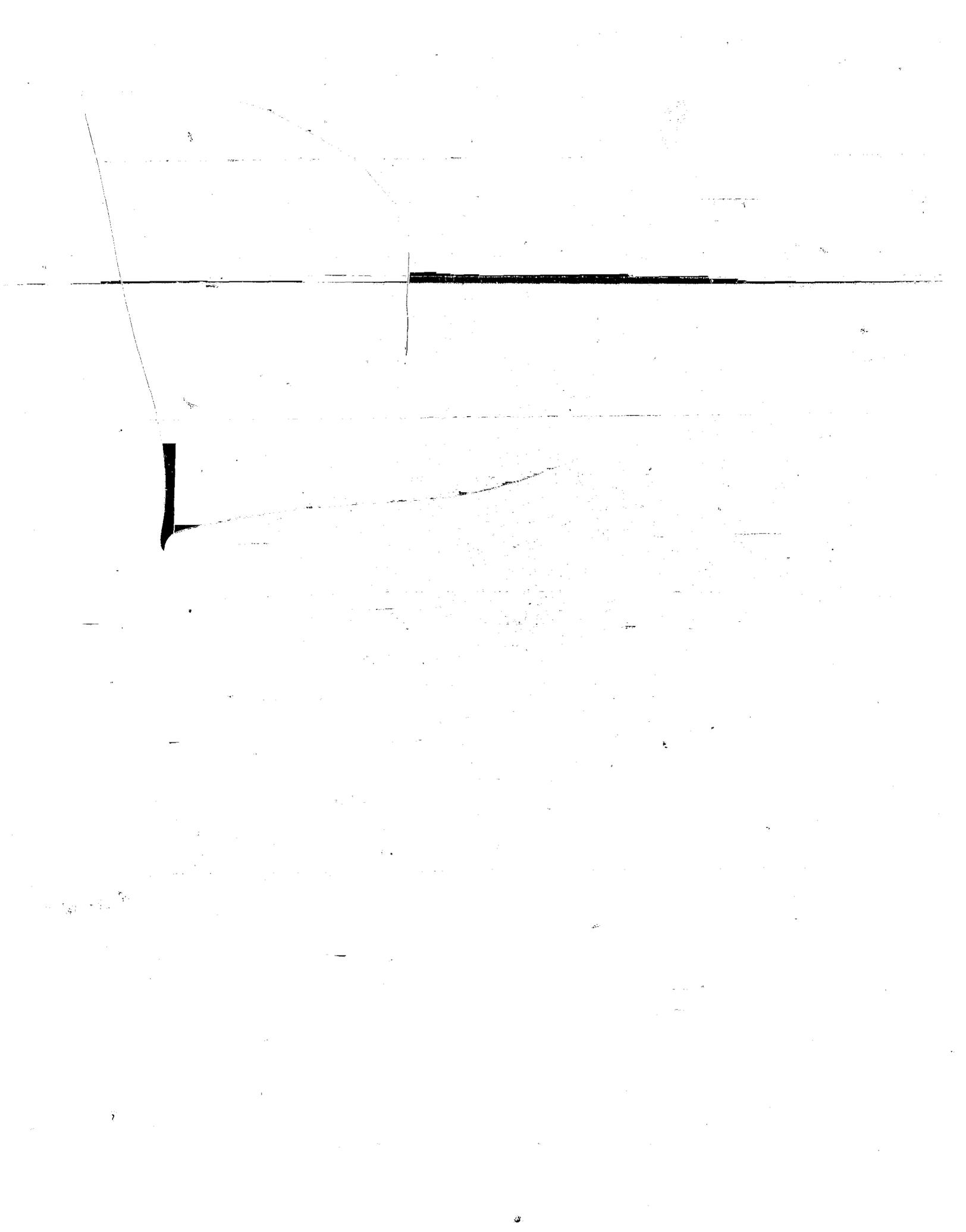
51. Please describe your major concerns, criticisms, or interests concerning probation services within your area.

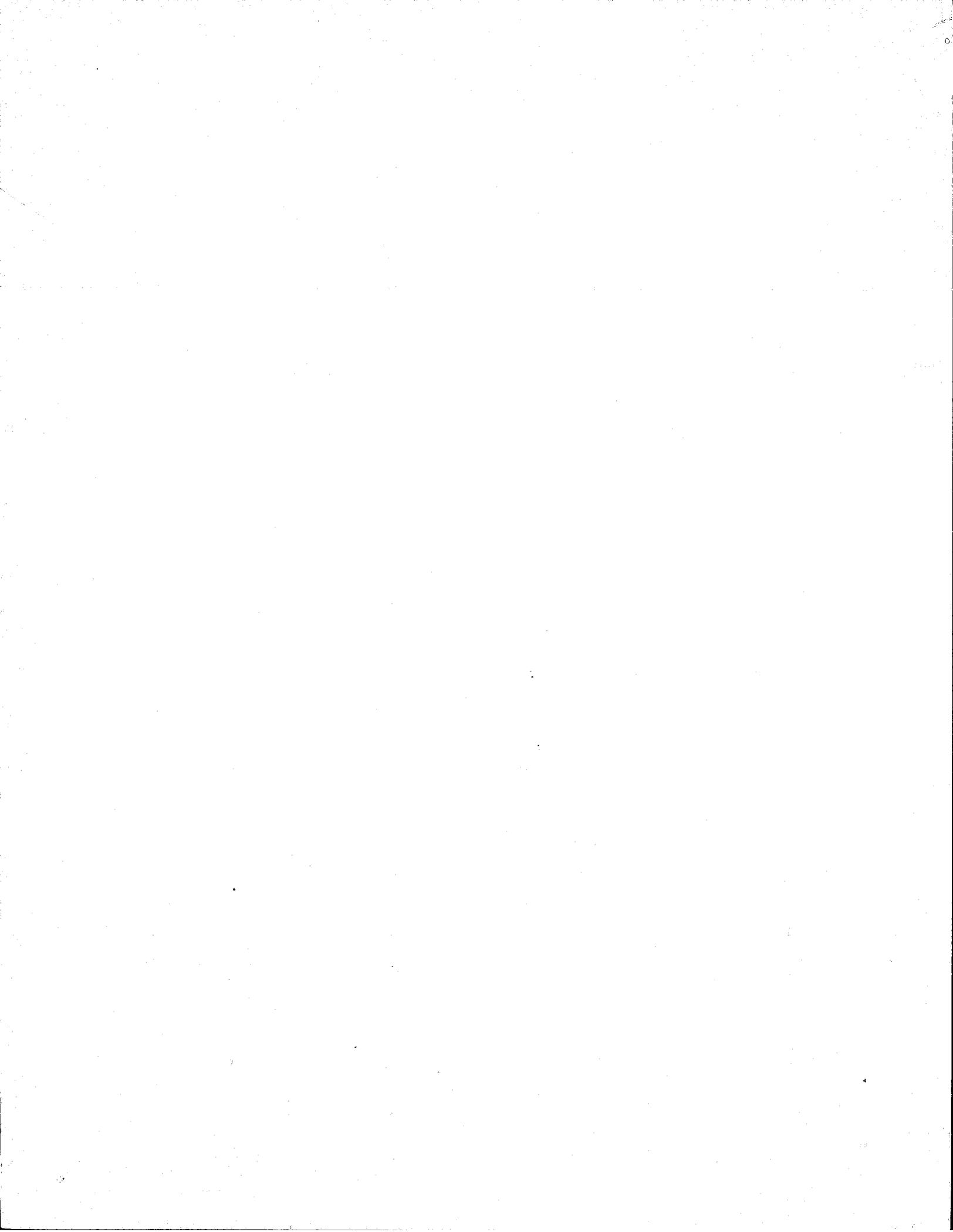
Probation is abused as a result of arbitrary decision making; social and economic class distinctions; some courts' "assembly-line" approach; and the absence of objective presentence investigations.

Staff are shorthanded, overburdened, unprofessional. Instead of allying themselves with prosecution they should act as helper and mediator, yet report more faithfully violations of probation conditions which seem not to be correctable.

The public should be educated about the correctional purposes of probation, in order to alter their sense that it is an inherently permissible system.

Q6-000
Defense Attorneys





393 Distributed

257 Returned Completed (65% return rate)

This survey instrument was intended to elicit information about the use of community resources for probation goals, and views about the coordination and understanding between resource and probation agencies. Attitudes towards probationer-clients are articulated.

The questionnaire was distributed through several state agencies. The Department of Mental Health and Mental Retardation distributed over 50 to community and state facilities (state hospitals and schools, local MHMR programs and special detoxification units), returning 44. The Texas Commission on Alcoholism mailed Q7 to all agencies receiving funds and registered with them who might serve adult probationers, and returned 78. The Texas Employment Commission distributed Q7 to all branch offices and to a few special job placement projects such as S.E.R.; 72 T.E.C. responses were received. The Drug Abuse Division of the Department of Community Affairs, which oversees federal and state monies going to local communities, similarly distributed the survey to appropriate residential and nonresidential treatment centers; 30 were returned. Finally, the Texas Rehabilitation Commission asked each of its local community offices to complete Q7; 33 such are represented in survey results here.

Community agencies in 244 counties are represented, and coverage was thus adequately broad.

The same format followed for previous questionnaires obtains for this one.

NAME OF AGENCY OR DEPARTMENT:

POSITION OF PERSON INTERVIEWED:

CITY:

COUNTIES SERVED BY YOUR OFFICE: *Only counties not represented in survey: Collingsworth, Colorado, Donley, Hall, Sutton, Titus, Walker, Wilson, Zapata and Zavala.*

1. Is there an adult probation department serving:

a. this community?

82% (210) Yes 4% (10) No 1% (2) Unknown 14% (35) NA

b. this county?

89% (228) Yes 2% (5) No 0% (1) Unknown 9% (23) NA

2. If there is an adult probation department in your area, does your office have direct contact with the staff of that department?

4% (11) Never 24% (63) Frequently

11% (28) Seldom 24% (62) On a regular basis

33% (84) Occasionally 3% (9) NA

Comments: Regularity and type of contacts range from monthly progress reports on clients, frequent case conferences on referrals or clients (especially for alcohol and drug-related cases), to in-service training and full or part-time liaison working directly with probation staff. Cooperation between agencies specified as a function of effective communication.

3. If there is no adult probation department in your area, is someone within the local or county government (sheriff's department, etc.) designated to handle probated cases?

9% (22) Yes* 2% (4) No 2% (5) Unknown 88% (226) NA
@85% @15%

*Does your office have direct contact concerning services to probationers with that person?

1% (3) Never 2% (6) Frequently
@9% @ 19%

3% (7) Seldom 1% (3) On a regular basis
@22% @ 9%

5% (13) Occasionally 87% (225) NA
@41%

Q7-000
Resources

(3) Comments: Occasional contact in some instances with sheriff's office.

4. Are the services provided through your agency available to probationers?

96% (248) Yes 1% (2) No* 3% (7) NA

*Comments: Some agencies establish eligibility requirements (e.g., indigency, disability), weigh individual needs. Most accept court referrals. Specialized services may not be routinely available (without cost to probation department).

5. What is the average number of probationers served by your agency each month?

Mean # 40 Median # 10 Range 1-1250

6. Approximately what percentage of your clients are probationers?

20% (8) None 3% (9) 31-50%
53% (136) 1-10% 11% (29) More than 50%
11% (29) 11-30% 13% (34) NA

7. Please list the major kinds of services your office offers to probationers (for example: vocational training, aptitude testing, family counseling, transportation, health, jobs, etc.)

In addition to the above: employment counseling and job placement; residential services; treatment for drug and alcohol problems; and the whole panoply of social services.

8. Are the problems in helping and working with clients who are probationers different or more severe than the problems with other clients?

42% (108) Yes* 48% (123) No 10% (26) NA

*Please explain: Respondents divided in assessing the relative severity of needs and problems. Those who affirmed, specified a number of issues distinctive to working with probationers:

- a. The stigma attached to offenders - most critical in gaining employment. Also noted are a need for coordinating services, and adjusting expectations for each client.
- b. The probationer's educational, vocational disabilities.
- c. The probationer's lack of motivation, particularly when attending therapy under duress.
- d. The probationer's value system.

Q7-000
Resources

9. Do you have a higher incomplete or failure rate among clients who are probationers?

16% (40) Yes 40% (102) No 33% (84) Unknown 12% (31) NA
@28% @72%

Comments: Results are generally difficult to judge. Service agencies dealing with employment problems (TEC) constitute a majority of those judging a higher "failure" rate for probationers. To others the sanction attached to probation seems a plus for treatment.

10. How would you evaluate the degree of cooperation between your office and the person or office responsible for supervising probationers in your area?

6% (16) Nonexistent 45% (117) Good
4% (10) Poor 34% (87) Excellent
10% (26) NA

Comments: Good working relationships entail mutual support and effective communication; attitudes and effort vary from one probation officer to another, from one department to another.

11. Does your office have problems in trying to coordinate services for probationers with the probation department or person responsible for supervising probationers?

11% (28) Yes* 79% (202) No 10% (27) NA

*Please describe what these problems are and how they might be alleviated:

Better follow-up, especially with clients lacking motivation, is called for. Also suggested are better understanding between the two agencies of each other's functions; better referral procedures; different attitude from some probation officers toward treatment services.

12. Do you believe that the agencies which refer clients to community resource agencies handle referrals:

31% (80) Effectively? 8% (21) Poorly?
45% (115) Somewhat 1% (2) Very poorly?
effectively? 15% (39) NA

(Contd. next page)

Q7-000
Resources

(12) Comments: A majority see room for improvement, for more follow-up on referrals, and more adequate understanding and expectations about services available.

13. Do you believe that the services of community resource agencies such as yours need to be coordinated through one community agency?

33% (85) Yes 59% (152) No 8% (20) NA

Comments: This question was taken to mean different things. Commentary supports a central information/referral source, but the 'umbrella agency' concept meets with resistance and is felt to sponsor bureaucratic inefficiencies. Respondents recognize, however, the need to limit service duplication or overlap and to improve communications. Interagency councils are advanced as useful in this way.

14. Do you believe that probation is an effective method of correcting offenders?

77% (199) Yes 14% (35) No 9% (23) NA

Comments: Probation's effectiveness is enhanced by presentence investigation, proper supervision and management, and availability of needed resources. This demands better staff, funding, and education of the public.

15. Do you believe that probation is now used as an alternative to incarceration:

31% (80) In too many cases?

47% (121) Appropriately?

9% (24) In not enough cases?

12% (32) NA

Comments: Although few respondents wished to endorse the current penal system, they nonetheless felt need for changes in sentencing criteria, primarily to remove the repeat offender from probation.

16. Please add any general comments, complaints, or suggestions you may have concerning probation in general or your office's role in helping probationers.

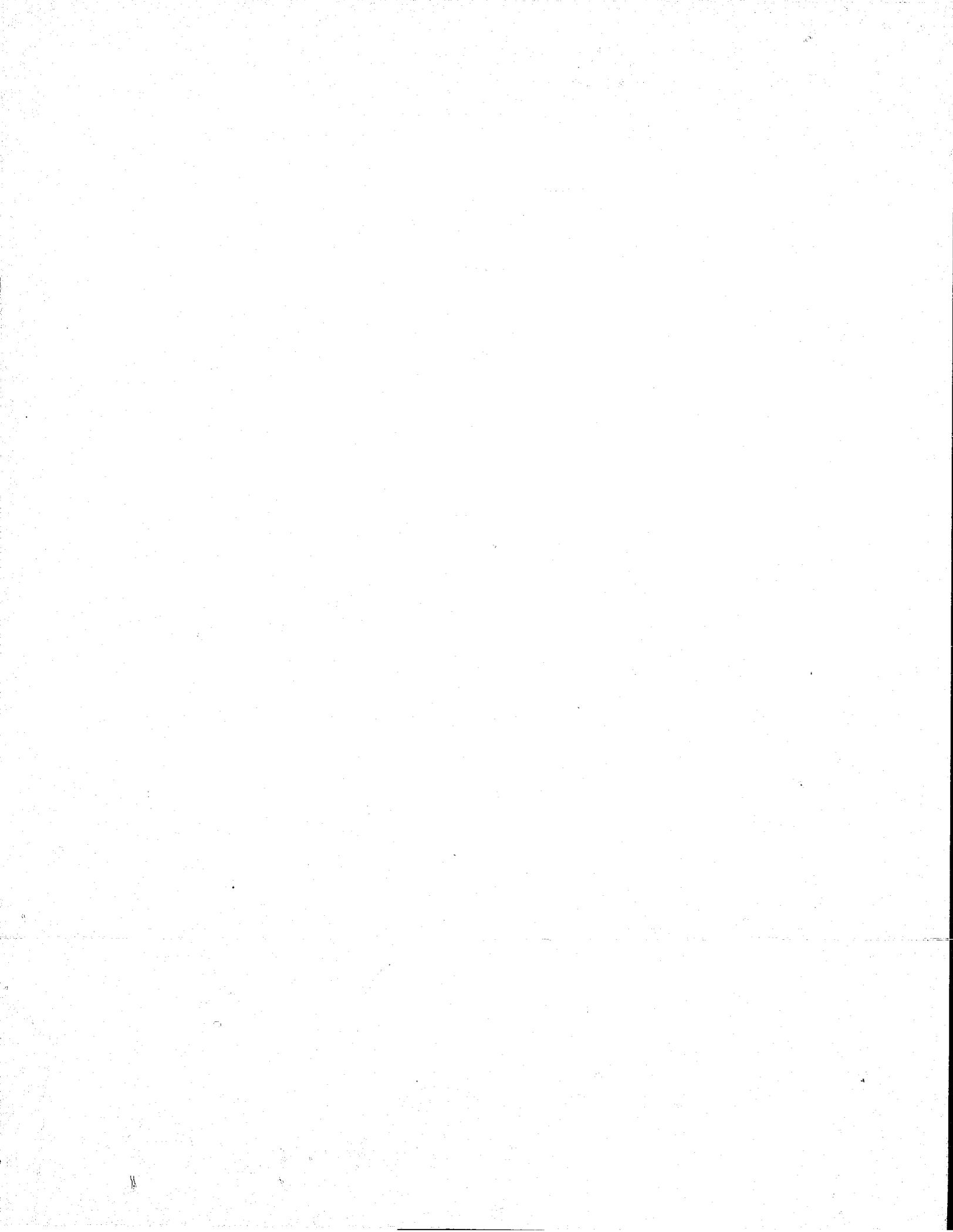
Improve probation through:

- a. Adequate staffing to reduce caseload size and improve supervision.*
- b. Better presentence investigation, screening of offenders.*
- c. More rational, equitable sentencing.*
- d. Thorough coordination of treatment plans with service agencies.*
- e. Dollars to purchase services from other agencies.*
- f. Development of job opportunities for offenders.*
- g. Clear definition to all concerned (client, probation officer, and agency) of their responsibilities.*

Patient confidentiality laws concern many respondents.

Q7-000
Resources





545 Distributed

275 Returned Completed (50% return rate)

Chiefs of Police across the state were asked to supply the project with their views about the probation process, particularly as it is used in their communities. They were also polled on diversion, work release, procedural issues, and joint training between police and probation. 545 Q8's were mailed through the Police Chiefs Association to all its membership, and project staff followed up to encourage responses. Responses were collected from July to September, 1976.

CITY:

COUNTY:

1. How many years have you been in law enforcement?

Mean: 17 years

Range: 2-50 years

As chief of police in this community?

Mean: 6 years

Range: 1 mo. to 36 years

2. Are the services of a formally established, full-time adult probation department available in your community?

83% (229) Yes

14% (40) No

2% (6) NA

If yes, please answer questions 3-24.

If no, please answer questions 7-24.

3. Does the probation department do an adequate job in: (Check if response is yes.)

43% (118) Supervising offenders?

20% (54) Rehabilitating offenders?

21% (59) Using community resources to help offenders?

7% (19) Other:

3% (9) None of the above.

Comments: *Many departments are hampered by insufficient staffing and heavy caseloads. Communication between police and probation departments not always what it should be.*

4. If the probation department is not functioning adequately, what are the major causes of its inadequacy? (Check all applicable.)

44% (122) Lack of manpower

16% (44) Lack of community resources

11% (31) Inadequately trained manpower

6% (17) Failure to use existing community resources

20% (54) Lack of facilities and equipment

1% (2) Too law-enforcement oriented

9% (25) Lack of understanding of the function of probation

22% (62) Not law-enforcement oriented enough

2% (6) Other:

(Contd. next page)

Q8-000
Police Chiefs

(4) Contd.

Comments: *Poor communication with law enforcement is reflected in the commentary. Besides problems noted above, courts are seen as too lenient, revocation too remote, and community resources too scarce.*

5. How would you evaluate the degree of cooperation between your office and the probation department staff?

<u>4% (12)</u> Nonexistent	<u>41% (113)</u> Good
@6%	@53%
<u>12% (33)</u> Poor	<u>20% (54)</u> Excellent
@16%	@25%
	<u>23% (63)</u> NA

Comments: *The degree of cooperation (a function of communication and recognition of law enforcement's role) ranges from little or no contact to excellent, supportive relationships.*

6. What could be done to improve the working relationships between the two departments?

- mutual training*
- police-probation liaison officers*
- periodic reports on probationers, up-to-date list of probationers*
- 'rap sessions' or regular meetings to better understand one another's problems*
- improved manpower of probation to effect all this: an information exchange is badly needed.*

7. Do you believe that probation is an effective method of correcting offenders?

<u>57% (158)</u> Yes	<u>32% (89)</u> No	<u>10% (28)</u> NA
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Comments: *Probation's effectiveness hinges on a quality program, quality staff, and more reasonable caseloads. All options should be tried to correct offenders, and probation is but one. Proper pre-sentence screening is a must; some offenders should be categorically excluded.*

8. Do you believe that probation is now used as an alternative to incarceration:

<u>82% (227)</u> In too many cases?	<u>3% (9)</u> In not enough cases?
<u>11% (30)</u> Appropriately?	<u>3% (9)</u> NA

Comments: *This is affected by plea bargaining, by jammed court dockets, jails and penitentiaries, and by a failure to use presentence reports to screen out inappropriate cases. Some feel probation not appropriate for the second-time, like-offense defendant.*

Q8-000
Police Chiefs

9. What should be the major responsibilities of an adult probation department?

74% (203) Supervising offenders to protect the community

50% (138) Providing rehabilitative counseling to offenders

37% (103) Offering services to establish offenders in the community (employment, education, health, etc.)

35% (97) Coordinating the use of community resources which would help rehabilitate offenders

3% (9) Other:

Comments: *All of these are important. These responsibilities cannot be fulfilled, however, without adequate staff to see them through. Probation services should not be used as a "reward" to the offender.*

Note: Diversion is a community or local judicial procedure through which an accused person is treated or corrected before or in lieu of going to trial. Diversion might include drug treatment, alcohol treatment, referral to MMR, vocational training, etc.

10. Is there a diversion program functioning in your county?

34% (95) Yes*

55% (151) No

11% (29) NA

*If yes, what office operates the program?

9% (26) Court
@25%

6% (18) A special office
@17%

8% (21) Probation Department
@20%

3% (9) Other:
@9%

3% (9) County/
@9% District Attorney

6% (17) Combination of the above
@16%

1% (3) Sheriff's Department
@3%

62% (172) NA

11. Do you approve of the use of diversion programs?

69% (189) Yes

19% (53) No

12% (33) NA

Comments: *Diversion is acceptable and successful where used, especially for youthful offenders, alcoholics and drug users, or where the circumstances permit. It should entail proper supervision and controls, however, and should not be abused by decision makers.*

Q8-000
Police Chiefs

12. What office should operate diversion programs?

<u>27% (74)</u> Court	<u>5% (15)</u> Sheriff's Department
<u>25% (70)</u> Probation Department	<u>21% (57)</u> A special office
<u>16% (45)</u> County/ District Attorney	<u>3% (8)</u> Other:

Comments: *Diversion should be a cooperative effort of the agencies listed. If a single authority is desired, probation (being part of the court) is the most likely setting for supervising those diverted.*

13. Do you operate the city jail in your community?

<u>52% (142)</u> Yes	<u>46% (127)</u> No*	<u>2% (6)</u> NA
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Comments: *Cities not operating their own jail share county facilities, (usually) on contract basis. Many city jails used for hold-over only.*

14. Is there a jail work release program operated from the city jail in your community?

<u>5% (15)</u> Yes*	<u>88% (241)</u> No**	<u>7% (19)</u> NA
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*Please describe who operates the program and how, or attach your written policy.

**Would you favor the establishment of such a program and specific legislation to support it?

<u>51% (140)</u> Yes	<u>32% (88)</u> No	<u>17% (47)</u> NA
----------------------	--------------------	--------------------

Comments: *Some city jails and/or communities not seen as conducive to such a program - but more commentators view this as beneficial to both sides (offenders and officers of the law). When work release is allowed, it is administered for the most part informally - participants work for city departments or within the jail, with or without judicial approval. Wages earned apply to fines. All existing programs are reported to be successful and constructive efforts.*

15. Do you believe that motions to revoke probation are filed in your community:

a. District Court

b. County Court

62% (171) not often enough?

66% (181) not often enough?

28% (78) in about the right
number of cases

21% (59) in about the right
number of cases

1% (3) too often?

1% (3) too often?

8% (23) NA

12% (32) NA

Q8-000
Police Chiefs

(15) Contd.

Comments: Repeat violators on probation do not receive sufficient attention - lack of adequate probation personnel hampers detection of violators. Too frequently commission of another like or serious offense is required to get the probationer removed from community.

16. What office should be responsible for deciding to initiate a motion to revoke probation?

17% (47) Court 22% (60) Sheriff's Department

51% (141) Probation Department 21% (57) Police Department

34% (95) County/
District Attorney 3% (8) Other:

Comments: Law enforcement agencies would like to be able to recommend merited revocations. The probation department, however, is likely to be most knowledgeable; with the advice of other agencies it should therefore initiate proceedings.

17. What officer should be responsible for executing warrants on motions to revoke probation?

43% (118) Probation Department 28% (76) Police Department

61% (169) Sheriff's Department 4% (10) Other:

Comments: Any (peace officer), or all. City officers see this primarily a responsibility of the county (sheriff and police officers).

18. Do you believe probation officers should be responsible for transporting probationers in custody on violation warrants?

50% (138) Yes 48% (131) No 2% (6) NA

Comments: A certified peace officer should handle this (sheriff's department in particular). A probation officer who does so should have the assistance of a law enforcement officer.

19. Do you believe probation officers should carry guns?

70% (192) Yes 28% (76) No 2% (7) NA

Comments: Most see the need for legislation to permit a probation officer to carry a gun, but limit this to unusual circumstances and to those properly trained and/or certified in its safe use. Others feel the law enforcement image tends to limit a probation officer's effectiveness with clients.

Q8-000
Police Chiefs

20. Would you favor legislation which would make probation a unit of community-based corrections, under the court's authority, along with other programs such as diversion, jail work release, personal bond release, etc.?

69% (191) Yes 27% (74) No 4% (10) NA

Comments: *Police chiefs have different ideas about how this might be achieved, desire adequate administration.*

21. Would you favor legislation which would call for State subsidy of county community-based corrections systems?

77% (212) Yes* 18% (50) No 5% (13) NA

*Should such a system be controlled by:

<u>23% (64)</u> The State? @29%	<u>1% (3)</u> Other: @1%
<u>21% (57)</u> The local court? @26%	<u>4% (10)</u> Combination of above @5%
<u>30% (84)</u> The county? @38%	<u>21% (57)</u> NA

Comments: *State subsidy and/or control would tend to raise standards; all parties should be active in control of the system.*

22. Would you consider some planned joint training programs with police and probation officers of:

13% (37) Little benefit to coordination and working relationship?
82% (225) Much benefit to coordination and working relationship?
5% (13) NA

Comments: *With support from all participating agencies, such a program's combined training would greatly enhance everyone's work, and help redefine the common interests of police and probation.*

23. Would you consider some joint training programs with police and prosecutors of:

6% (18) Little benefit to the judicial process?
88% (242) Much benefit to the judicial process?
5% (15) NA

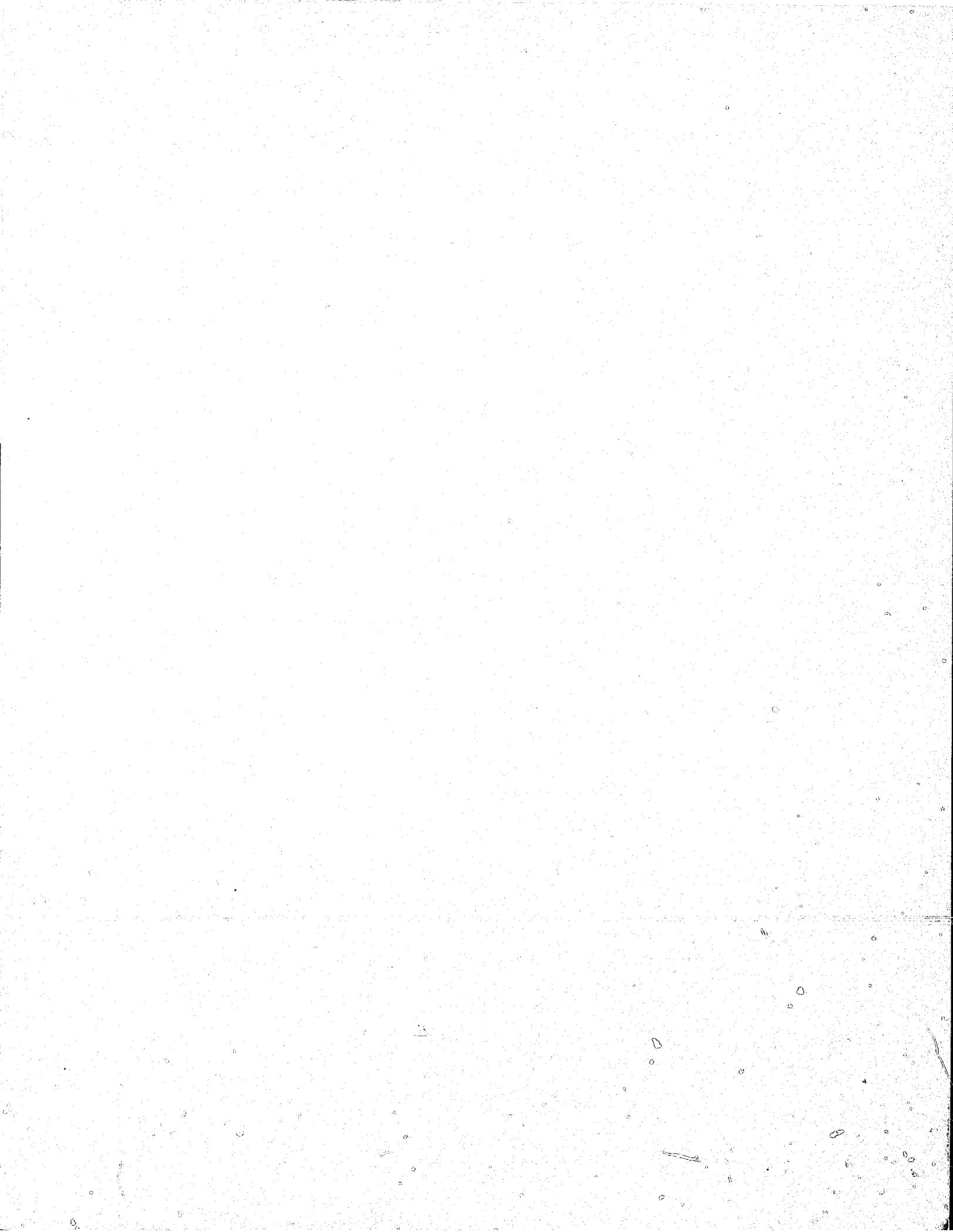
Comments: *There should be a mutual obligation to inform and teach one another. This is badly needed - the idea is an excellent one. Case preparation, and thus prosecution, would be enhanced.*

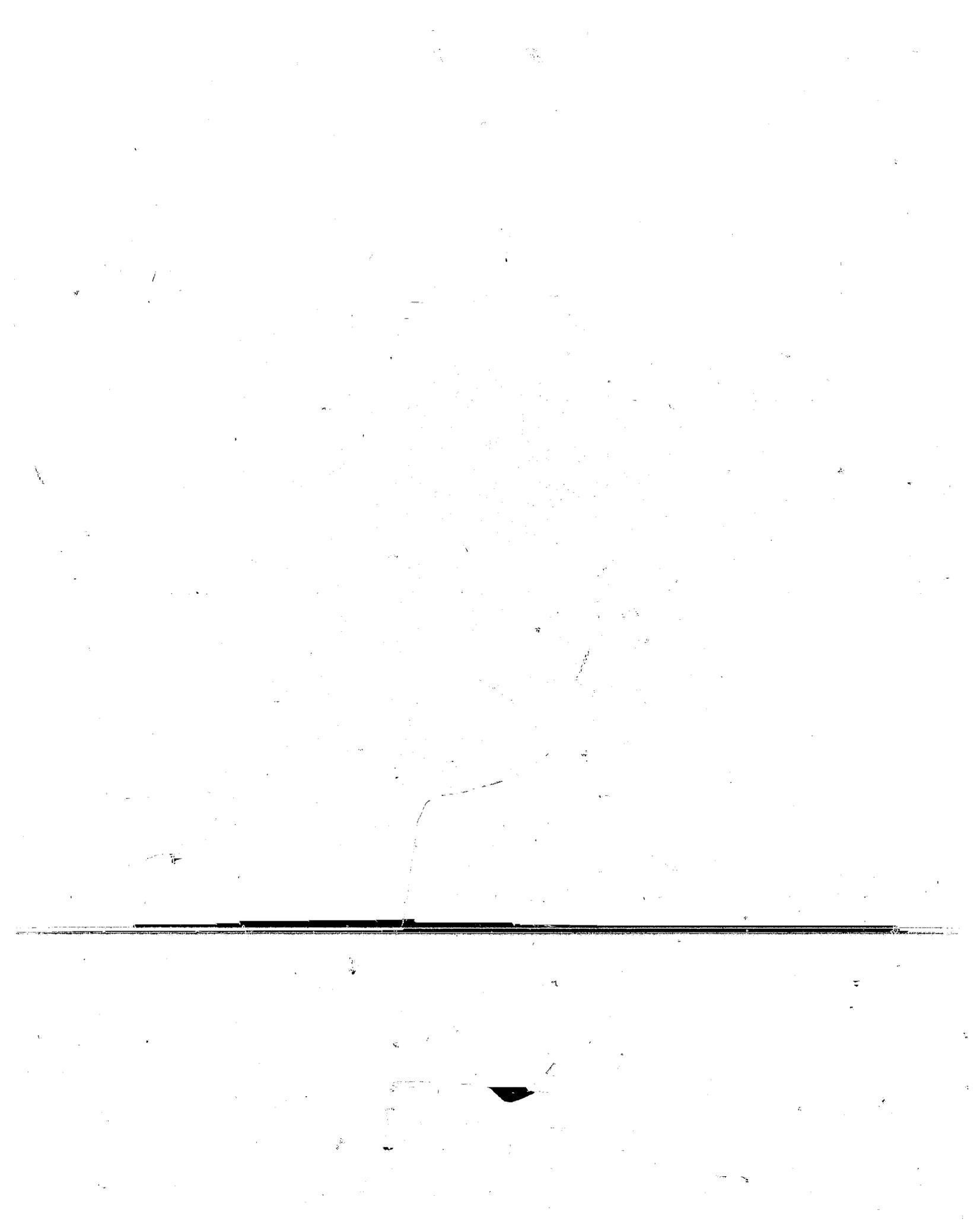
24. Please discuss your major interests, concerns, or complaints concerning probation, both within your county and throughout the State.

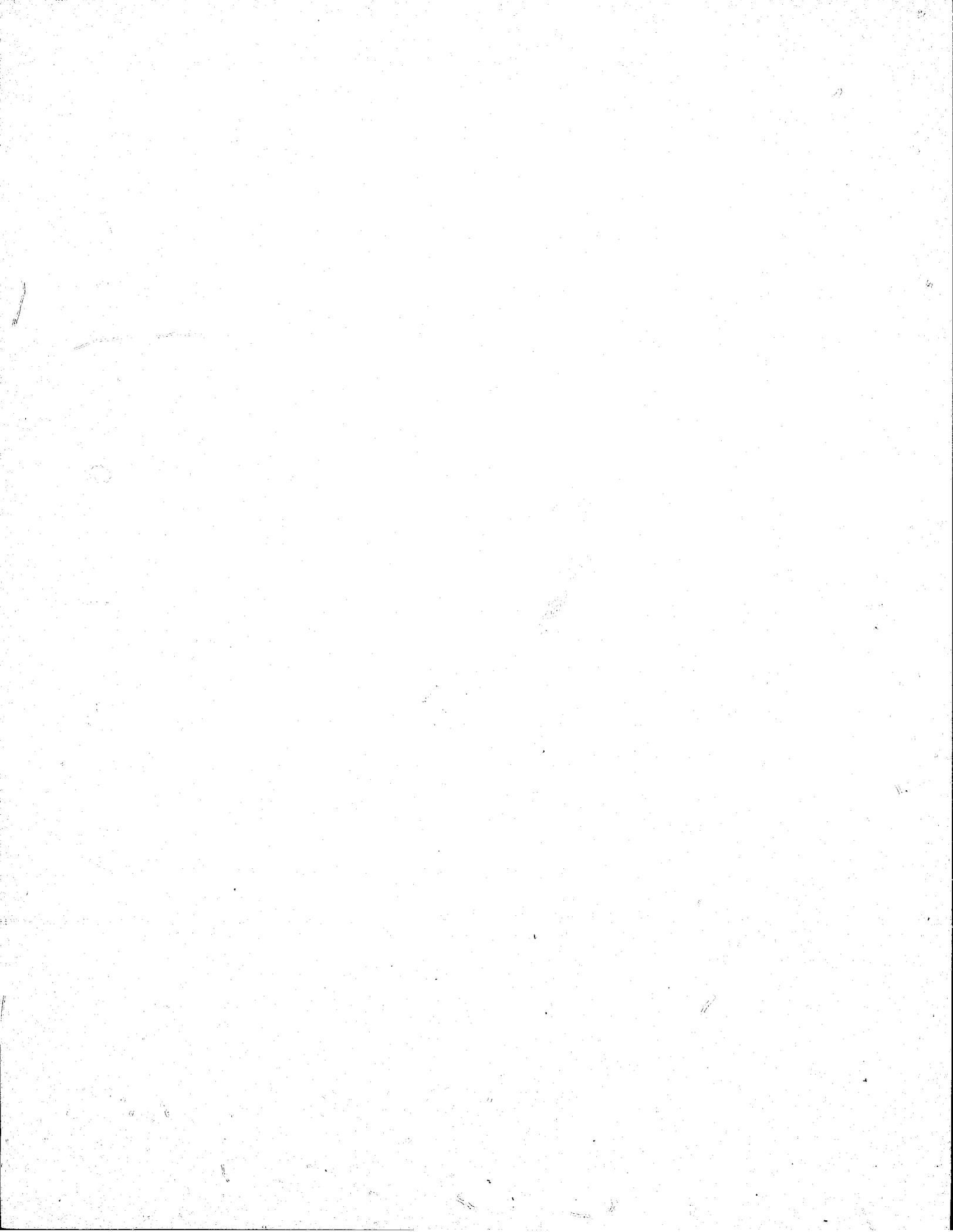
Probation is an essential part of the criminal justice process. Yet of all criminal justice agencies, probation seems the most fragmented in their efforts...perhaps, from the absence of well defined state guidelines. In addition, probation officers operate now under such handicaps as limited funds, lack of personnel, excessive case loads, a lack of understanding and mistrust by the public as well as law enforcement. Nonetheless, many departments do an excellent job.

What is of more concern, probation is abused by prosecutors and the courts. Presentence screening is not exercised. Recognizing the heavy court dockets and crowded holding institutions this is understandable, but something should be done. Among other things, conditions of probation must be enforced to improve the community's respect for law enforcement. Interagency communication gaps (whether through formal or informal contact), too little joint training, and disjointed efforts undermine control of the offender in his community.

Q8-000
Police Chiefs







254 Distributed

154 Returned Completed (73% return rate)

The survey instrument for sheriffs is almost identical to that for police chiefs. It adds, however, a few questions concerning personal bond programs and collections and enforcement of fees, fines and court costs. The last 8 questions were designed to determine the extent to which sheriffs are responsible for probation supervision. The questionnaire was mailed to members of the Texas Sheriffs Association. A follow-up letter was mailed in July from the project staff.

Again, a precedent has been followed in representing survey results.

COUNTY:

1. How many years have you been in law enforcement?

Mean: 19 years Range: 3-47 years

As sheriff of this county?

Mean: 11 years Range: 1-36 years

2. How many deputies do you have on your staff?

a. Outside

Mean: 12 Range: None to 296

b. Office

Mean: 5 Range: None to 105

c. Jail

Mean: 9 Range: None to 271

3. Are the services of a formally established, full-time adult probation department available in your county?

91% (140) Yes 8% (12) No 1% (2) NA

If yes, please answer questions 4-29.

If no, please answer questions 9-37.

4. Does the probation department do an adequate job in: (Check if response is yes.)

65% (100) Supervising offenders?

30% (46) Rehabilitating offenders?

39% (60) Using community resources to help offenders?

4% (7) Other:

10% (16) None

Comments: For the most part the department does a good job with the manpower available. Some complain about too much concentration on money collections.

Q9-000
Sheriffs

5. If the probation department is not functioning adequately, what are the major causes of its inadequacy? (Check all applicable.)

32% (49) Lack of manpower

8% (13) Inadequately trained manpower

15% (23) Lack of facilities and equipment

10% (15) Lack of understanding of the function of probation

6% (9) Lack of community resources

3% (5) Failure to use existing community resources

1% (2) Too law-enforcement oriented

16% (25) Not law-enforcement oriented enough

1% (1) Other:

Comments: NA

6. How would you evaluate the degree of cooperation between your office and the probation department staff?

3% (5) Nonexistent

42% (65) Good

6% (10) Poor

38% (58) Excellent

10% (16) NA

Comments: *Comments reflect that probation's cooperation is much valued; contact and cooperation are desired where they do not now exist.*

7. What could be done to improve the working relationships between the two departments?

Full sharing of information and views might improve already sound relationships. More manpower would help accomplish this.

8. Do you offer courtesy fingerprinting to the probation department?

84% (129) Yes

5% (8) No*

11% (17) NA

*Please explain your reasons for not doing so.

*Would you offer this courtesy if asked by the probation department?

27% (42) Yes

----- No

73% (112) NA

Q9-000
Sheriffs

(8) Comments: *Few requests - some departments seem to have their own facilities.*

9. Do you believe that probation is an effective method of correcting offenders:

71% (110) Yes 16% (25) No 12% (19) NA

Comments: *When properly administered for appropriate offenders.*

10. Do you believe that probation is now used as an alternative to incarceration:

60% (93) In too many cases? 3% (4) In not enough cases?

32% (50) Appropriately? 4% (7) NA

Comments: *Probation should never be 'assured' (as for the first crime). It is now used for too many habitual offenders.*

11. What should be the major responsibilities of an adult probation department?

82% (126) Supervising offenders to protect the community

49% (76) Providing rehabilitative counseling to offenders

36% (55) Offering services to establish offenders in the community (employment, education, health, etc.)

34% (52) Coordinating the use of community resources which would help rehabilitate offenders

1% (1) Other

Comments: *Enforcement and supervision, requiring personal contact with probationers.*

12. Is there a personal bond program in your county?

54% (83) Yes* 40% (62) No** 6% (9) NA

*If yes, what office operates the program?

4% (6) Probation Department 23% (36) Sheriff's Department

3% (4) County/ 3% (5) Other:

5% (8) District Attorney 6% (9)

14% (21) Court 7% (11) Combination of above

25% (38) 13% (19) 46% (71) NA

Q9-000
Sheriffs

(12) Contd.

**If no, would you favor the establishment of such a program, as authorized in Article 2372 p-2 Vernon's Civil Statutes?

17% (26) Yes 19% (29) No 64% (99) NA
@47% @53%

Comments: *Proper administration and guidelines might make pretrial release viable; also more staff. Those commenting feel a definite need.*

13. What office do you believe should operate a personal bond program?

34% (52) Court 51% (79) Sheriff's Department
10% (16) Probation 3% (4) Other
Department
10% (16) County/
District Attorney

Comments: *The Sheriff's department is in position to know the community best; a team effort might work.*

Note: Diversion is a community or local judicial procedure through which an accused person is treated or corrected before or in lieu of going to trial. Diversion might include drug treatment, alcohol treatment, referral to MHMR, vocational training, etc.

14. Is there a diversion program functioning in your county?

29% (45) Yes* 67% (104) No 3% (5) NA

*If yes, what office operates the program?

10% (16) Court 1% (2) Sheriff's Department
@35% @4%
3% (5) Probation 4% (6) A special office
@11% Department @13%
3% (4) County/ 1% (2) Other
@9% District Attorney @4%
70% (108) NA 7% (11) Combination of above

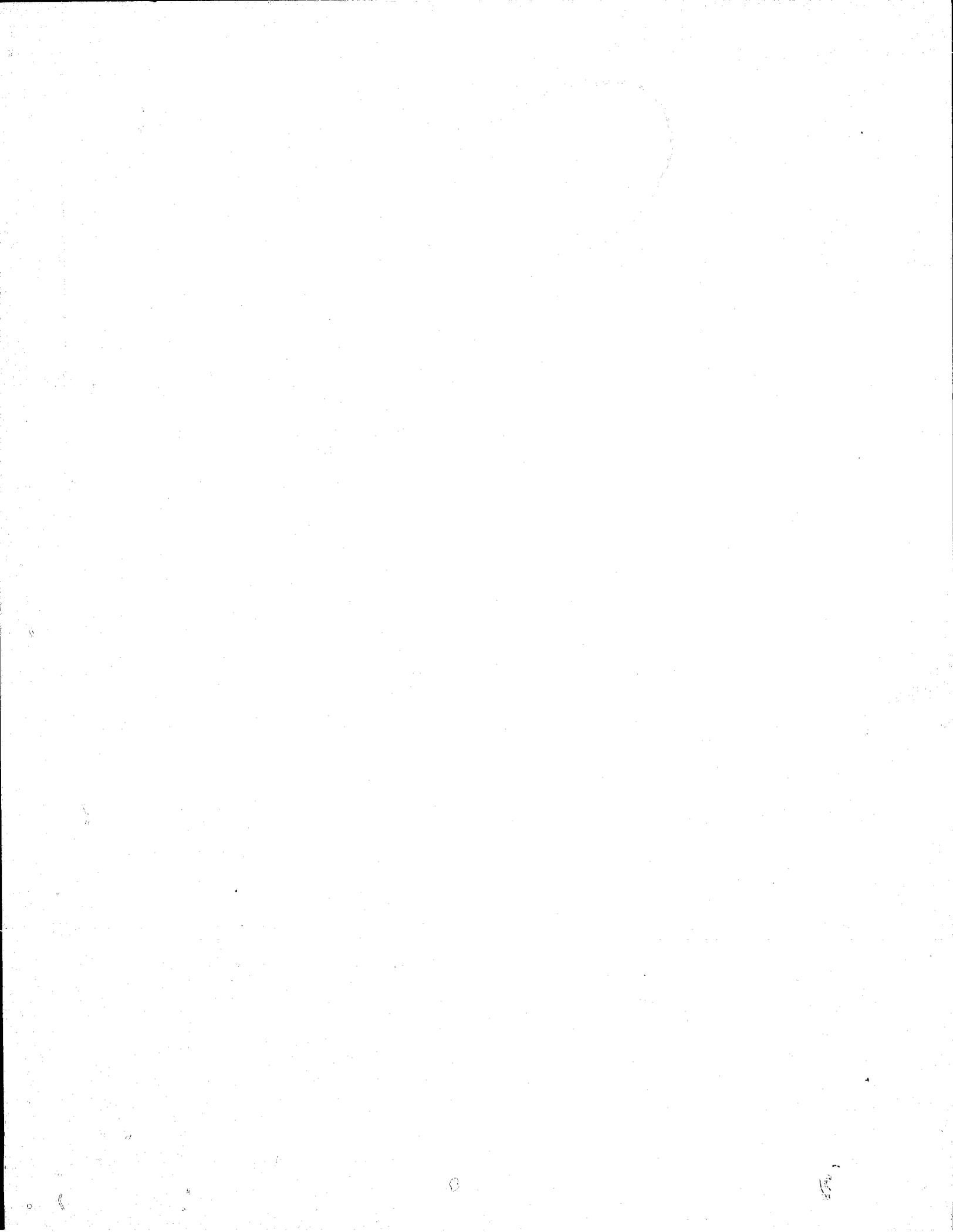
Comments: *Diversion should be an available option for certain cases, especially where the court determines that rehabilitation is possible.*

15. Do you approve of the use of diversion programs?

67% (103) Yes 19% (30) No 14% (21) NA

Comments: *Strong agreement that diversion should be a part of the system to reach some offenders at the earliest stage.*

Q9-000
Sheriffs



CONTINUED

4 OF 5

16. What office should operate diversion programs?

<u>31% (48)</u> Court	<u>10% (16)</u> Sheriff's Department
<u>25% (38)</u> Probation Department	<u>17% (26)</u> A special office
<u>12% (19)</u> County/ District Attorney	<u>3% (4)</u> Other

17. Do you operate the county jail in your county?

95% (147) Yes 3% (4) No* 2% (3) NA

Comments: NA

18. Is there a jail work release program operated from the county jail in your county?

16% (24) Yes* 82% (127) No** 2% (3) NA

*Please describe who operates the program and how, or attach your written policy.

**Would you favor the establishment of such a program and specific legislation to support it?

48% (74) Yes 30% (46) No 22% (34) NA

Comments: *Work release is exercised in a few counties informally, on varying scales, and successfully. This is agreed upon by Judge or District Attorney and Sheriff, who supervises. Some cite limited manpower as major impediment. Majority desire legislation permitting sheriff to exercise work release programs, provided the legislation expands manpower.*

19. Do you believe that motions to revoke probation are filed in your county:

a. District Court

b. County Court

36% (56) not often enough?

37% (57) not often enough?

54% (84) in about the right
number of cases?,

47% (72) in about the right
number of cases?

1% (2) too often?

1% (2) too often?

8% (12) NA

15% (23) NA

Comments: *If probation is not properly supervised and enforced, it is meaningless.*

Q9-000
Sheriffs

20. What office should be responsible for deciding to initiate a motion to revoke probation?

<u>15%</u> (23) Court	<u>31%</u> (48) Sheriff's Department
<u>57%</u> (88) Probation Department	<u>10%</u> (16) Police Department
<u>31%</u> (48) County/District Attorney	<u>3%</u> (4) Other

Comments: Probation and law enforcement should act jointly.

21. What office should be responsible for executing warrants on motions to revoke probation?

<u>39%</u> (60) Probation Department	<u>8%</u> (13) Police Department
<u>67%</u> (104) Sheriff's Department	<u>-----</u> Other

Comments: Most understand it to be the duty of the sheriff's office to execute all warrants. Others leave latitude for certified probation officers.

22. What office should be responsible for collecting the following monies in probated cases? (Check one office for each category.)

<u>AGENCY</u>	<u>PROBATION FEES</u>	<u>COURT COSTS</u>	<u>RESTITUTION</u>	<u>FINES</u>
Probation Department	71%	38%	49%	36%
Court	6%	10%	8%	10%
County/District Clerk	14%	34%	20%	25%
County/District Attorney	---	---	4%	---
Sheriff's Department	---	4%	5%	8%
Police Department	---	---	---	---
Other* Multiple Responses	---	---	---	5%
NA	4%	10%	12%	12%

*Please list

Comments: When granted, probation should handle collections, excepting perhaps the multi-county departments.

Q9-000
Sheriffs

23. Should fines and court costs in probated cases be collected when in arrears by:

<u>METHOD OF COLLECTION</u>	<u>DISTRICT COURT</u>		<u>COUNTY COURT</u>	
	<u>Fines</u>	<u>Ct. Costs</u>	<u>Fines</u>	<u>Ct. Costs</u>
Motion to revoke	42%	40% (@54%)	38% (@50%)	38% (@52%)
Capias profine	32%	29% (@39%)	33% (@43%)	30% (@41%)
Other* <i>Multiple responses</i>	3%	---	---	---
NA	19%	26%	23%	26%

*Please describe

Comments: If defendant is able to pay, and other methods of attempting collection fail, this is a breach of contract with the court, and basis for revocation.

24. What office do you believe should be responsible for initiating a capias profine in a probation case?

<u>OFFICE</u>	<u>DISTRICT COURT</u>		<u>COUNTY COURT</u>	
	<u>Fines</u>	<u>Ct. Costs</u>	<u>Fines</u>	<u>Ct. Costs</u>
Probation Department	46%	38% (@48%)	39% (@51%)	34% (@47%)
Court	11%	11% (@14%)	10% (@13%)	10% (@13%)
County/District Attorney	8%	8% (@11%)	7% (@ 9%)	7% (@10%)
County/District Clerk	12%	13% (@16%)	12% (@15%)	13% (@18%)
Sheriff's Department	6%	6% (@ 8%)	8% (@10%)	7% (@10%)
Police Department	---	---	---	---
Other*	---	---	---	---
NA	13%	21%	23%	27%

*Please describe

Comments: While the majority answered that the probation department should be responsible, a few commented that the clerk should notify the probation office and proceed to have the court order capias profine.

Q9-000
Sheriffs

25. Do you believe probation officers should be responsible for transporting probationers in custody on violation warrants?

46% (71) Yes 52% (80) No 2% (3) NA

Comments: *Consensus seems to be that a certified peace officer should normally transport violators.*

26. Do you believe probation officers should carry guns?

60% (93) Yes 37% (57) No 3% (4) NA

Comments: *Anyone carrying a gun should be certified and trained to do so; however, the need should extend only to special circumstances. Authority to carry a gun should be legislated.*

27. Would you favor legislation which would make probation a unit of community-based corrections, under the court's authority, along with other programs such as diversion, jail work release, personal bond release, etc.?

54% (83) Yes 37% (57) No 9% (14) NA

Comments: *This would require more manpower and funds (with attendant guidelines for their use) than are now devoted to such purposes.*

28. Would you favor legislation which would call for state subsidy of county community-based corrections systems?

52% (80) Yes* 38% (58) No 10% (16) NA

*Should such a system be controlled by:

<u>17% (27)</u> the state	<u>1% (2)</u> other
@29%	@2%
<u>18% (28)</u> the local court	<u>2% (3)</u> combination of above
@30%	@3%
<u>21% (33)</u> the county	<u>40% (61)</u> NA
@35%	

Comments: *A combination of state and local funding and control preferred in order to enhance the quality of programs.*

Q9-000
Sheriffs

29. Please discuss your major interests, concerns, or complaints concerning probation, both within your county and throughout the state.

Probation is a sound system to rehabilitate, deter and make restitution to victims, if it is made to work properly. This requires more emphasis on presentence investigations and more rational sentencing in many jurisdictions, as well as dedicated professionals who conceive themselves to be something more than collection agents.

Probation professionals should not, however, drift into other areas of alternative corrections prematurely. Adequate supervision of probationers is a must, and should take priority.

Answer the following questions only if you answered no to question #3:

30. Does your department oversee or supervise any adults on probation in your county?

a. District Court

4% (6) Yes 5% (8) No 91% (140) NA
@43% @57%

b. County Court

2% (3) Yes 6% (9) No 92% (142) NA
@25% @75%

31. Does your department oversee or supervise any juveniles on probation in your county?

1% (2) Yes 6% (9) No 93% (143) NA
@18% @82%

32. How long has the department been responsible for supervising probationers?

Mean: 9 years

Range: 2-20 years

33. Have you been provided extra staff to assist in supervising probationers?

--- Yes* 6% (9) No 94% (145) NA

*If yes, how many additional staff did you have for this purpose as of May 1, 1976?

STAFF FUNCTION	NUMBER MALE	NUMBER FEMALE	AVERAGE EDUCATIONAL LEVEL
Supervision	-----	-----	-----
Clerical	-----	-----	-----

Q9-000
Sheriffs

34. How many adult probationers were under your supervision as of May 1, 1976?

a. District Court

b. County Court

Total-173 Felony (4 Jurisdictions)

----- Misdemeanor

Total-24 Misdemeanor
(1 Jurisdiction)

35. How many adult probationers were under your supervision as of May 1, 1976?

Total-5 Adjudicated (1 Jurisdiction)

Total-5 Non-adjudicated (1 Jurisdiction)

36. Does your department's supervision of probationers include any of the following activities? (Check all applicable.)

3% (4) Surveillance

3% (5) Enforcement of court orders

----- Employment assistance

1% (1) Family counseling

1% (2) Other counseling

1% (1) Transportation assistance

1% (1) Medical assistance

----- Other

37. Do you approve of your department's responsibility of supervising probationers?

3% (5) Yes
@42%

4% (7) No*
@58%

92% (142) NA

*What office should have this responsibility?

1% (1) Court

----- Police Department

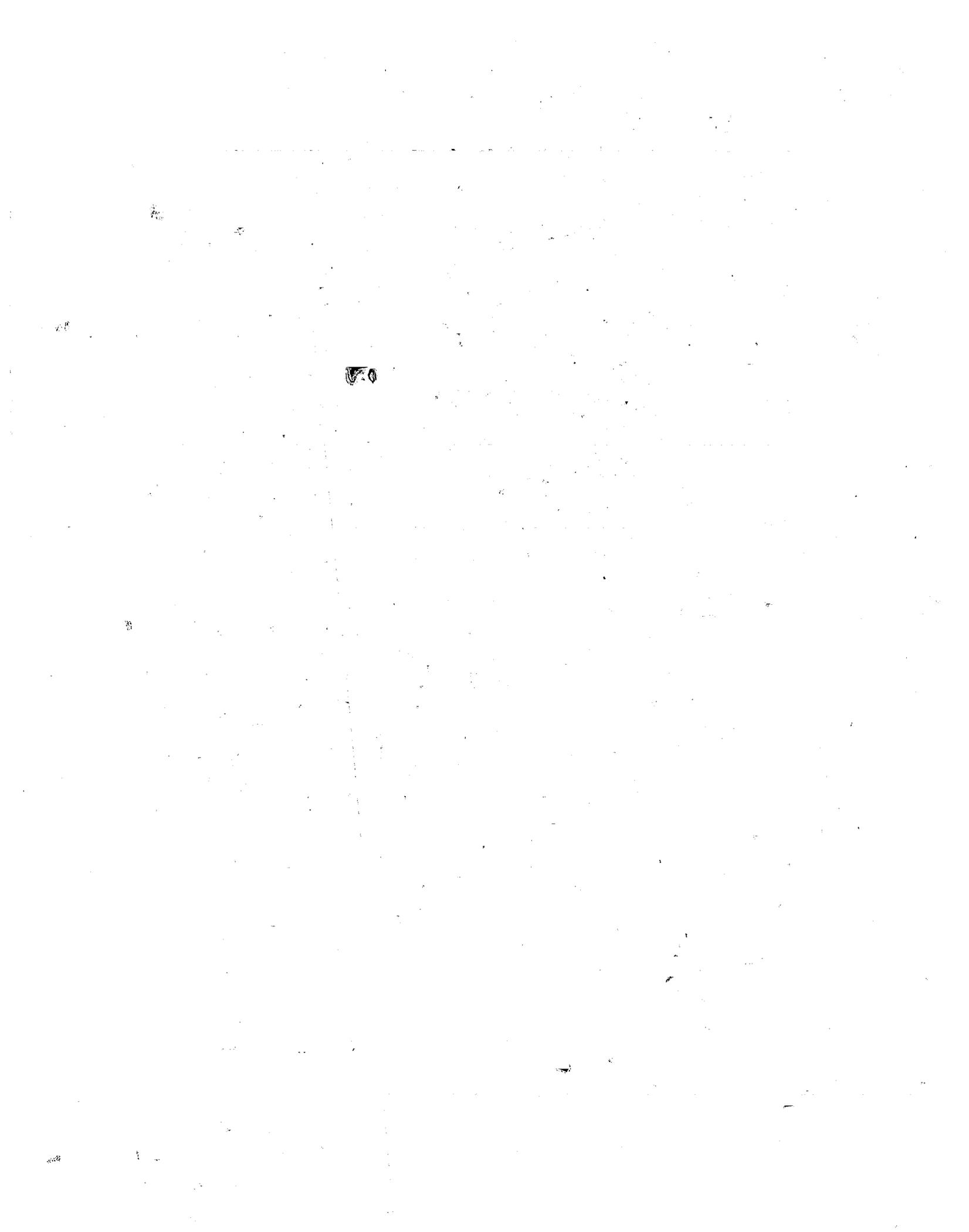
----- County/
District Attorney

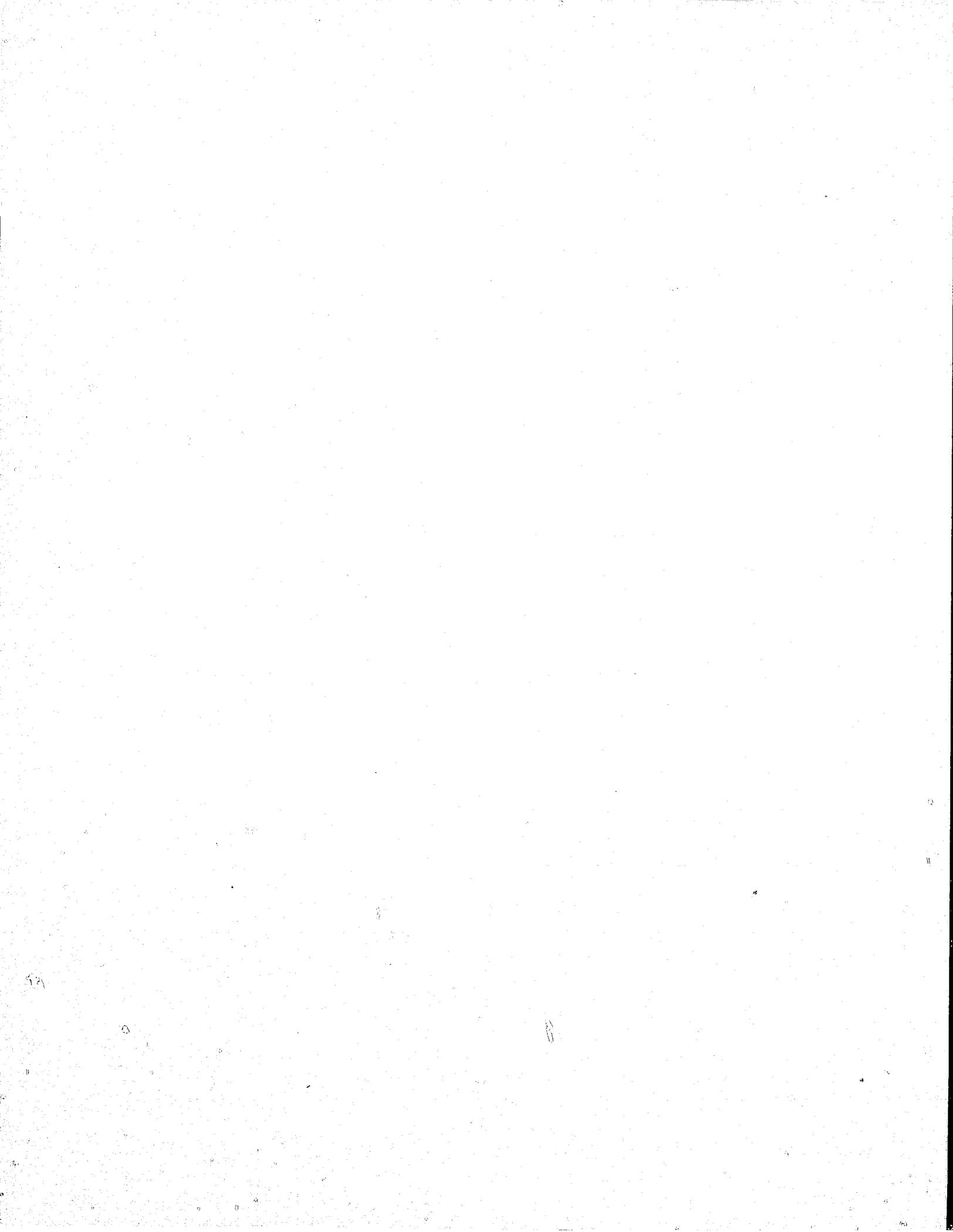
4% (7) A Probation Department

----- County/
District Clerk

----- Other:

Q9-000
Sheriffs





254 Distributed

155 Returned

A copy of Q10 is included here for the record, without any tabulations of data it provided. Review of the information we received from county fiscal officers revealed such disparities in accounting methods for funds expended on and collected vis-a-vis probation, and showed information to be sufficiently incomplete to frustrate any attempts at cogent analysis.

Financial data provided for questions 1 and 2 herein were checked against, and in some cases clarified, information provided by probation officers through Questionnaire 1 (#87-91). Our findings, qualified as they must be, are presented there, in Appendix A.

1. If there was/is an official adult probation department serving your county, please complete the following chart. (If your county has a combined adult and juvenile department, please give total figures unless budgeted separately.)

	1974	1975	1976
BUDGET	\$ _____	\$ _____	\$ _____
EXPENDITURE	\$ _____	\$ _____	\$ _____

2. Was any part of the above expenditure offset by probation fees collected for your county? Yes No

	1974	1975
DISTRICT COURTS	\$ _____	\$ _____
COUNTY COURTS	\$ _____	\$ _____

3. What was your total county budget for all county functions?

1974 \$ _____ 1975 \$ _____ 1976 \$ _____

4. Was your county part of a multi-county program for adult probation services during:
 1974? Yes No 1975? Yes No 1976? Yes No

5. If you answered yes to any portion of #4, what was the procedure for figuring your county's share of the expense:

Pro-rata by population Pre agreed amount
 Pro-rata by case load Other*

*Explain: _____

6. What counties were/are involved in the multi-county adult probation services?

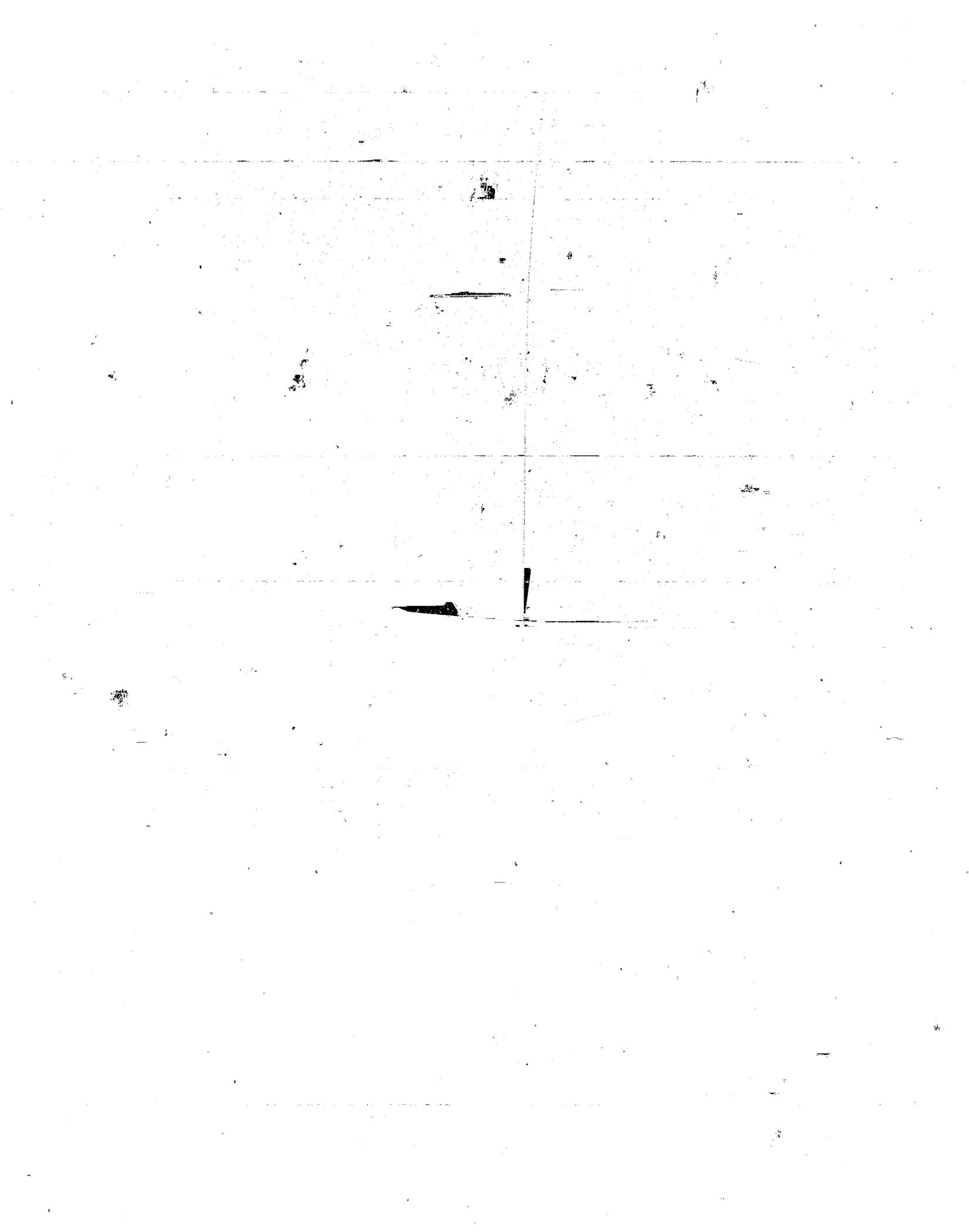
7. If you were/are in a multi-county adult probation program, what method is used for your county to receive collected probation fees?

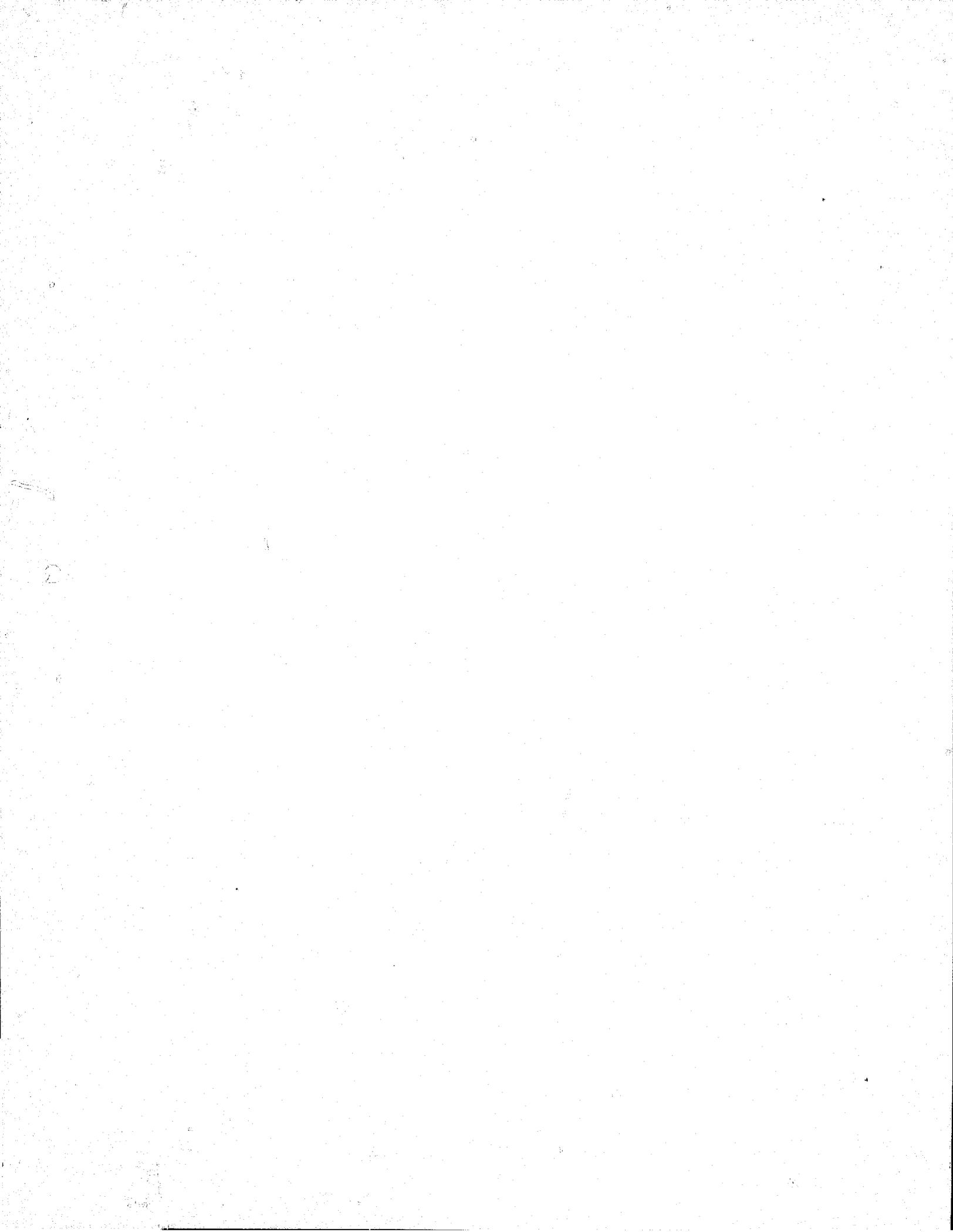
Pro-rata by population Amount collected from cases on
 Other* probation in your county

*Explain: _____

8. What procedure is used for separate accounting of probation fees from other county funds?

Comment: _____





513 Distributed

231 Returned Completed (45% return rate)

That area of our plan covering bail bond would not have been complete without the views of magistrates most often responsible for setting and administering bail. The Texas Justice Court Training Center (South West Texas State University, San Marcos) provided a mailing list of all justices of the peace. Our returns, gathered from June through September, 1976, represent 144 counties, from the most to the least populous.

TEXAS CENTER FOR THE JUDICIARY ADULT PROBATION MASTER PLAN



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COUNTY:

PLACE NO:

1. Do you have a personal bond release program in your county?

32% (74) Yes* 65% (105) No 3% (7) NA

*What agency operates it?

A number of responses were unclear, but insofar as we can categorize others:

- a. Probation operates 3 programs*
- b. Sheriffs operate 8 programs*
- c. Counties operate 7 programs*
- d. A separate agency was noted in 14 responses*
- e. Courts operate 23 programs*

Several indicated no formal PR bond program as such, but nonetheless use this form of bonding occasionally or regularly.

2. If you answered no to question #1, would you favor a personal bond program in accordance with the authority established in Article 2372 p-2, Vernon's Civil Statutes?

44% (101) Yes 23% (53) No 33% (77) NA
@66% @34%

Comments: Most commentary reflected that such a program would be fairer and would simplify present bail-bond conditions. Several smaller counties noted that they could not justify the expense of such a program.

Q11-000
Justices of the Peace

3. In your opinion, who should administer the personal bond program if one exists or is established in your county?

<u>51% (117)</u> Court	<u>13% (30)</u> District attorney
<u>16% (37)</u> Probation Department	<u>16% (37)</u> Other: Sheriff; a special Bail Bond Board; the county

4. To approximately what percentage of accused persons who appear before your court do you (or would you) grant personal bond release?

<u>7% (16)</u> None	<u>8% (18)</u> 61-80%
<u>41% (94)</u> 1-20%	<u>3% (8)</u> More than 80%
<u>14% (33)</u> 21-40%	<u>9% (22)</u> Unknown
<u>13% (30)</u> 41-60%	<u>4% (10)</u> NA

5. Would you favor bond reform in Texas?

<u>72% (167)</u> Yes	<u>22% (50)</u> No	<u>6% (14)</u> NA
----------------------	--------------------	-------------------

Comments: Reform is needed to save the county and the citizen money and jail space, and to administer fairer justice to the accused. But there is a great diversity in feelings about the directions reform should take. PR bond seen as "one of the best tools available" to handle non-violent offenders.

Commercial bond is discriminatory, expensive, and unnecessary in the majority of cases; the relationship between jailers and bondsmen needs to be severed or altered; bond approval fees should be prohibited; and bail bond approval should be taken away from the sheriff's department and placed with the judiciary. A cash deposit to the court suffices.

A thorough check should be prepared for release; habitual criminals should not have access to PR bond.

State should supervise bonding practices or provide guidelines.

Bond forfeiture procedures should be simplified. It should be harder to jump bail. Higher bonds should be used in all cases. A person committing a felony should not be released again.

The present law works well in the opinion of some.





450 Distributed

328 Returned Completed (73% return rate)

Questionnaire 12 follows the general outline of Q8 and Q9 in surveying law enforcement's perspectives on probation practices, the local department's effectiveness and cooperation, diversion, and personal bond, adding a question concerning sanctions for DWI and DUID offenses. The Department of Public Safety distributed the questionnaire, and returns were received from July through September, 1976.

COUNTY(IES) SERVED:

1. How many years have you been in law enforcement?

Mean: 14 years Range: 1-38 years

As a highway patrol officer?

Mean: 11 years Range: 1-38 Years

As a driver's license officer?

Mean: 9 years Range: 1-32 years

As a supervisor?

Mean: 10 years Range: 1-24 years

As an officer in this county?

Mean: 8 years Range: 1-30 years

2. Are the services of a formally established, full-time adult probation department available in this county?

92% (301) Yes 8% (25) No* 1% (2) NA

*If no, please answer questions 8-25.

3. In your opinion, does the probation department do an adequate job in: (Check if response is yes.)

35% (115) Supervising offenders?

12% (41) Rehabilitating offenders?

19% (64) Using community resources to help offenders?

5% (15) Other:

36% (119) None

Comments: *Manpower shortages and/or inappropriate sentencing limit what would otherwise be an effective system; it is nonetheless the best alternative yet devised.*

Q12-000
Highway Patrol Officers

4. If the probation department is not functioning adequately, what are the major causes of its inadequacy? (Check all applicable.)

58% (189) Lack of manpower

25% (82) Inadequately trained manpower

31% (102) Lack of facilities and equipment

15% (49) Lack of understanding of the function of probation

18% (60) Lack of community resources

6% (20) Failure to use existing community resources

1% (3) Too law-enforcement oriented

40% (130) Not law-enforcement oriented enough

4% (13) Other:

Comments: *Same as above - insufficient personnel. Additionally, probation is not properly supported by local officials, county commissioners.*

5. How would you evaluate the degree of cooperation between your department and the probation department staff?

10% (34) Nonexistent

52% (172) Good

12% (40) Poor

15% (51) Excellent

9% (31) NA

Comments: *Increased communication called for, especially where none exists now; law enforcement should be informed about persons placed on probation.*

6. What could be done to improve the working relationships between the two departments?

Better liaison between agencies and officers, training in each other's fields, and understanding of each other's problems where good relationships are not already established.

Q12-000
Highway Patrol Officers

7. Does your department offer courtesy fingerprinting to the probation department?

25% (83) Yes 61% (200) No* 14% (45) NA

*Would you offer this courtesy if asked by the probation department?

55% (179) Yes 21% (70) No 24% (79) NA
@72% @28%

Comments: *Fingerprinting is handled by DPS where not by the sheriff's office. Respondents are amenable to helping if asked.*

8. Do you believe that probation is an effective method of correcting offenders?

56% (184) Yes 34% (112) No 10% (32) NA

Comments: *Probation is effective when properly administered and where applied to offenders likely to respond. A very good method for first offenders.*

9. Do you believe that probation is now used as an alternative to incarceration:

a. District Court:

b. County Court

76% (249) In too many cases?

83% (271) In too many cases?

15% (49) Appropriately?

8% (26) Appropriately?

1% (2) In not enough cases?

1% (2) In not enough cases?

8% (28) NA

9% (29) NA

Comments: *The misdemeanor probation law is too often abused (for the sake of revenues).*

10. Do you believe that conditions of probation should be:

50% (163) More severe?

87% (287) Enforced more?

@64%

27% (90) About as they are?

1% (4) Enforced less?

@36%

-- -- Less severe?

-- -- Enforced as they are?

23% (75) NA

11% (37) NA

Comments: *Enforcement calls for more manpower, but is necessary to eradicate the public impression that probation is synonymous with acquittal. Probation should be conditioned upon full restitution for all illegal acts.*

Q12-000
Highway Patrol Officers

11. What, in your opinion, should be the major responsibilities of an adult probation department?

75% (245) Supervising offenders to protect the community

47% (153) Providing rehabilitative counseling to offenders

35% (115) Offering services to establish offenders in the community (employment, education, health, etc.)

25% (82) Coordinating the use of community resources which would help rehabilitate offenders

4% (12) Other:

Comments: *Aiding the violator with employment should be the duty of the probation officer; other services are the duty of other agencies. All of these would apply to a properly manned probation department.*

12. Is there a personal bond program in this county?

65% (213) Yes* 19% (63) No** 16% (52) NA

*If yes, what office operates the program?

10% (32) Court 33% (109) Sheriff's Department
@20% @67%

-- (1) Probation Department 4% (12) Other:

@1% @7%

3% (9) County/ 50% (165) NA
@5% District Attorney

**If no, would you, as an officer, favor the establishment of such a program as authorized in Article 2372 p-2 Vernon's Civil Statutes?

9% (31) Yes 16% (53) No 74% (244) NA
@37% @63%

Comments: *Some sheriffs approve PR bonds without investigation and/or objectivity. The system is thus politicized. Many patrolmen show enthusiasm for the practice.*

13. What office do you believe should operate a personal bond program?

32% (104) Court 35% (115) Sheriff's Department

4% (12) Probation Department 7% (23) Other:

10% (33) County/
District Attorney

Comments: *Release should not be secured until the accused appears before a judge.*

Q12-000
Highway Patrol Officers

Note: Diversion is a community or local judicial procedure through which an accused person is treated or corrected before or in lieu of going to trial. Diversion might include drug treatment, alcohol treatment, referral to MHR, vocational training, etc.

14. Is there a diversion program functioning in this county?

28% (91) Yes* 52% (170) No 20% (67) NA
 @35% @65%

*If yes, what office operates the program?

<u>8% (26)</u> Court @36%	<u>2% (8)</u> A Special Office @11%
<u>4% (14)</u> Probation Department @19%	<u>3% (11)</u> Other: @15%
<u>3% (10)</u> County/ @14% District Attorney	<u>78% (256)</u> NA
<u>1% (3)</u> Sheriff's Department @4%	

15. Do you, as an officer, approve of the use of diversion programs?

51% (166) Yes 35% (117) No 14% (45) NA

Comments: *People have been known to benefit by this mechanism. Makes sense in view of lengthy pre-trial periods. Should be used objectively, preferably for first offenders; should not undermine the accused's answerability to the law.*

16. What office should operate diversion programs?

<u>23% (75)</u> Court	<u>4% (12)</u> Sheriff's Department
<u>19% (61)</u> Probation Department	<u>25% (81)</u> A Special Office
<u>8% (26)</u> County/ District Attorney	<u>4% (12)</u> Other:

Comments: *Should be a cooperative program.*

17. Is there a jail work release program operated from the county jail in this county?

16% (53) Yes* 65% (212) No** 19% (63) NA

*Please describe by whom and how the program operates? (See next page)
 **Would you, as an officer, favor the establishment of such a program and specific legislation to support it?

49% (162) Yes 33% (109) No 17% (57) NA

Q12-000
 Highway Patrol Officers

(17) Contd.

Comments: *Work release is highly successful: trusted inmates who have proven a desire to work should be allowed to do so. They may thus help defray cost of county maintenance. Some counties (e.g. Ellis) have a work crew guarded by a deputy. But, the sheriff should not use this program for personal ends.*

18. Do you believe that motions to revoke probation are filed in this county?

a. District Court

b. County Court

65% (212) not often enough?

72% (237) not often enough?

23% (76) in about the right number of cases?

15% (51) in about the right number of cases?

-- (1) too often?

-- (1) too often?

12% (39) NA

12% (39) NA

Comments: *We need a better (statewide) record system for keeping track of offenders.*

19. What office should be responsible for executing warrants on motions to revoke probation?

38% (126) Probation Department

53% (173) Sheriff's Department

8% (26) Police Department

4% (14) Other:

9% (29) Department of Public Safety

Comments: NA

20. Would you favor legislation which would make probation a unit of community-based corrections, under the court's authority, along with other programs such as diversion, jail work release, personal bond release, etc.?

49% (162) Yes

39% (129) No

11% (37) NA

Comments: *This might be tried on an experimental basis before being adopted statewide. Many respondents are vague on how such a program would work.*

Q12-000
Highway Patrol Officers

21. Would you favor legislation which would call for state subsidy of county community-based corrections systems?

45% (147) Yes* 46% (150) No 9% (31) NA

*Should such a system be controlled by:

<u>33% (108)</u> the State @70%	<u>1% (5)</u> Other: @3%
<u>4% (14)</u> the local court @9%	<u>53% (173)</u> NA
<u>8% (28)</u> the county @18%	

Comments: *Statewide standards are a must, and state administration would bring with it the advantages of greater objectivity and uniformity about practices. Some prefer local control.*

22. How would you evaluate the degree of cooperation between your department and the:

a. Sheriff's Office?

<u>3% (10)</u> Nonexistent	<u>47% (155)</u> Good
<u>13% (42)</u> Poor	<u>27% (89)</u> Excellent
	<u>10% (32)</u> NA

b. Police Department (if there is one in the county)?

<u>1% (2)</u> Nonexistent	<u>54% (176)</u> Good
<u>5% (17)</u> Poor	<u>27% (90)</u> Excellent
	<u>13% (43)</u> NA

23. As an observer in the system, how would you evaluate the degree of cooperation between the probation department (if there is one for this county) and the:

a. Sheriff's Office?

<u>3% (11)</u> Nonexistent @5%	<u>48% (159)</u> Good @66%
<u>14% (46)</u> Poor @19%	<u>7% (24)</u> Excellent @10%
	<u>27% (88)</u> NA

Q12-000
Highway Patrol Officers

(23 - Cooperation between probation department and:)

b. Police Department (if there is one in this county)?

<u>2% (8)</u> Nonexistent	<u>46% (151)</u> Good
@3%	@66%
<u>13% (43)</u> Poor	<u>8% (28)</u> Excellent
@19%	@12%
	<u>30% (98)</u> NA

c. District Attorney's Office?

<u>2% (7)</u> Nonexistent	<u>49% (160)</u> Good
@3%	@68%
<u>10% (34)</u> Poor	<u>10% (34)</u> Excellent
@14%	@14%
	<u>28% (93)</u> NA

d. County Attorney's Office?

<u>5% (16)</u> Nonexistent	<u>43% (140)</u> Good
@7%	@65%
<u>10% (34)</u> Poor	<u>8% (26)</u> Excellent
@16%	@12%
	<u>34% (112)</u> NA

Comments: NA

24. Please discuss your major interests, concerns, or complaints concerning probation, both within this county and throughout the State.

Most understand the needs of probation to be:

- better selectivity in sentencing, through PSI screening; measures to control plea bargaining's impact on the probation sentence;*
- better staff (numbers, training, and communication with law enforcement);*
- enforcement of probation conditions and restitution to victims;*
- attention to DWI problems and/or sanctions; and*
- uniformity among practices.*

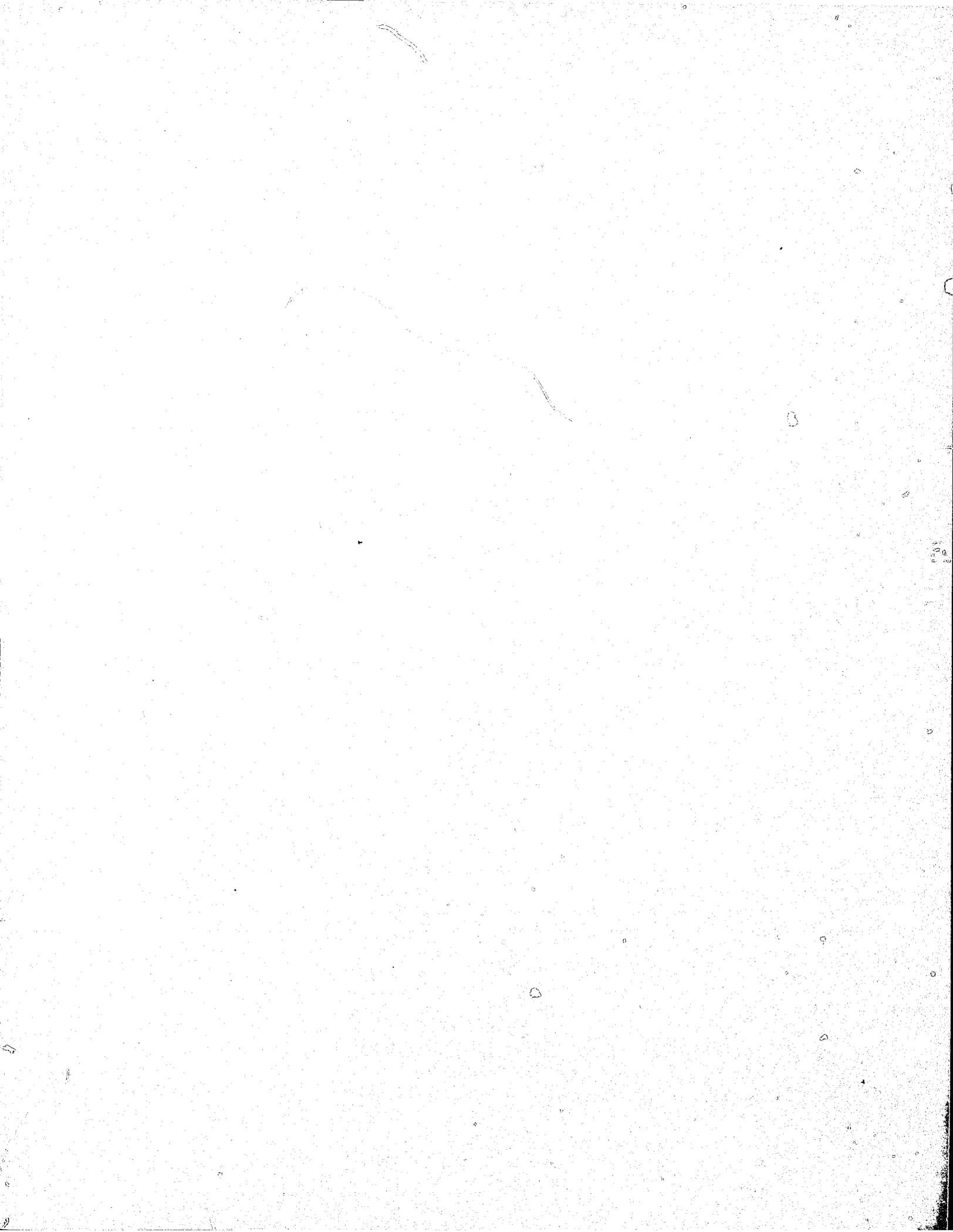
Probation, although a fine tool for the court system, is abused in too many cases. The certainty of punishment and enforcement of the laws is more important than the length or severity of sentence.

Q12-000
Highway Patrol Officers

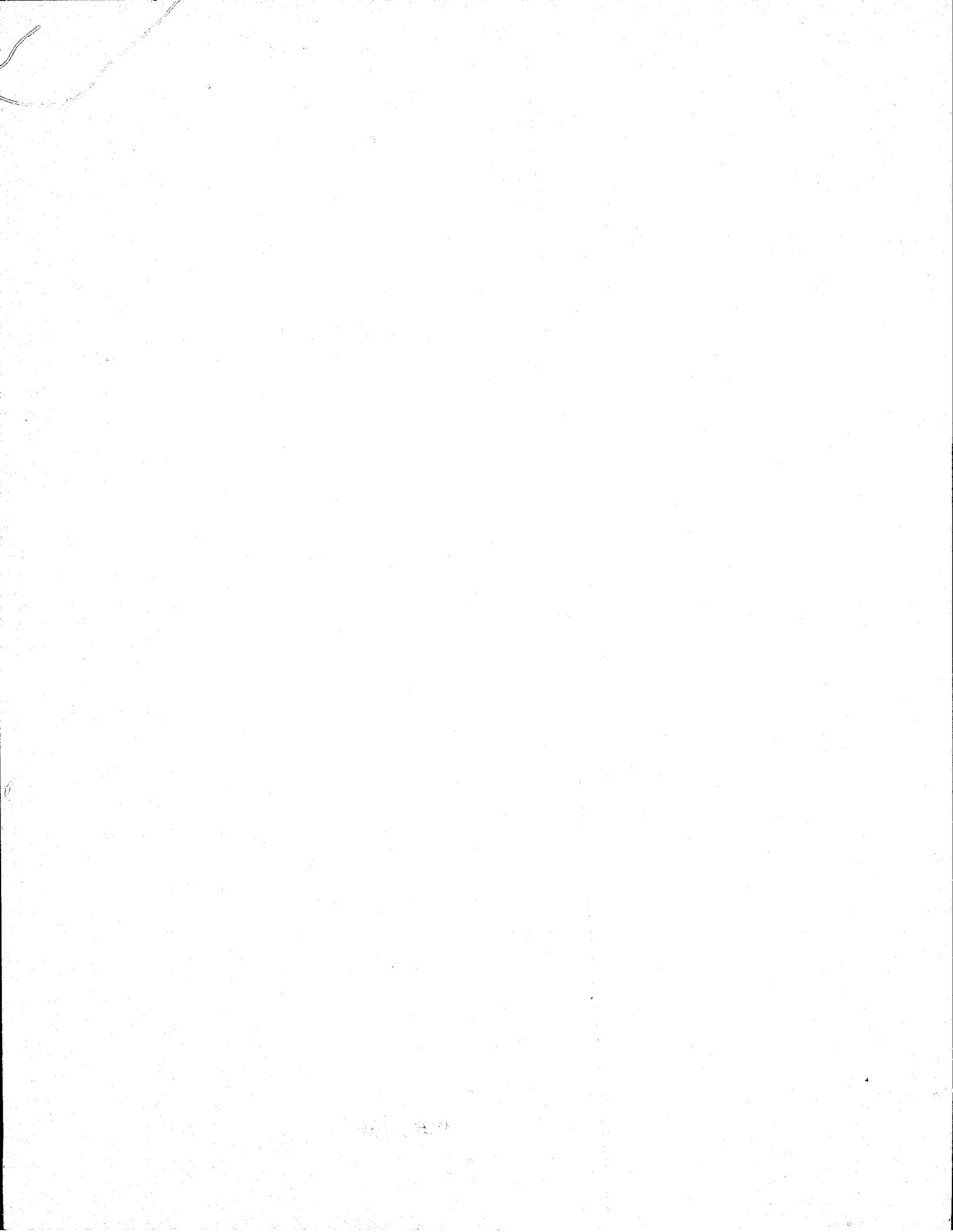
25. How should the driver's license suspension requirement be applied when an offender receives a probated sentence for any of the following offenses? (Place a check mark in the proper boxes.)

ACTION TAKEN	D W I		D U I D		INVOLUNTARY MANSLAUGHTER
	DISTRICT COURT	COUNTY COURT	DISTRICT COURT	COUNTY COURT	
Suspension carried out as present laws prescribe	37% (123)	30% (99)	37% (120)	30% (99)	40% (132)
Suspension left to discretion of trial court judge	2% (6)	2% (8)	3% (9)	3% (9)	2% (8)
Suspension at discretion of State Driver's License Division	37% (120)	41% (136)	37% (120)	40% (132)	36% (119)
Trial court to control use of license during term of probation	5% (16)	7% (23)	5% (18)	7% (22)	4% (13)
NA	19% (63)	19% (62)	19% (61)	20% (66)	17% (56)

Q12-000
Highway Patrol Officers





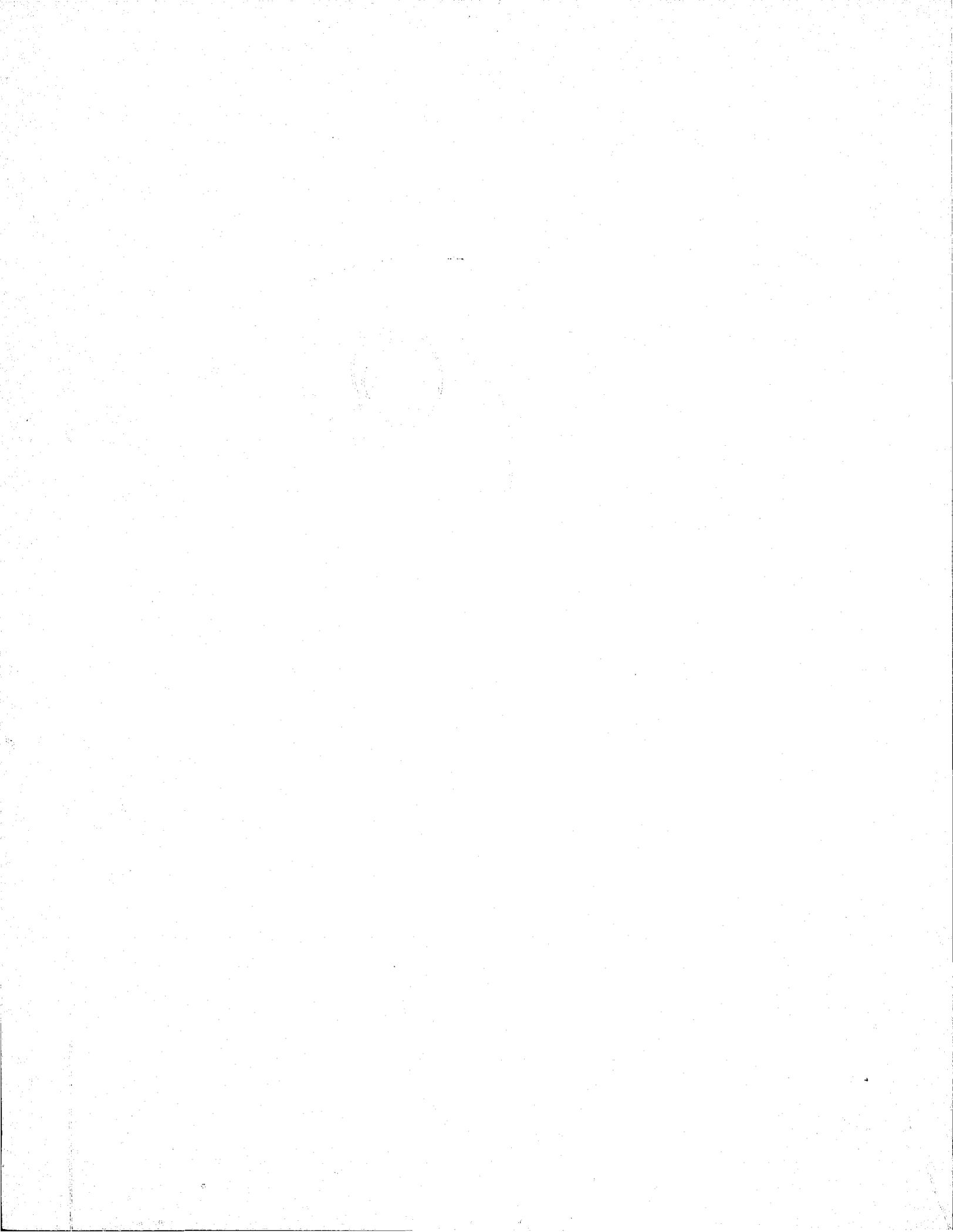


Distributed to 21 Departments

The Felony Offender Profile Form was designed by staff with the advice of the Governor's Office, Criminal Justice Division, to gather descriptive information regarding: probation sentences and the sentencing process; and felony probationers' criminal and social backgrounds. A copy of the survey form is appended here. A scattering of departments deemed likely to keep records providing the desired information were asked to participate. Records were to be checked for each probationer sentenced for a felony offense between the dates January 1, 1976 and July 1, 1976; a few large departments for whom this was particularly burdensome limited the time period from April 1, 1976 to July 1, 1976, and Harris County Adult Probation Department supplied data for only one month's sentencing activity. Survey results represent approximately 10% of all felons granted probation during the year 1976.

Much of the information requested was not available from records in most of the departments. Most notably, bond status and other charges at the time probated, and youthful offenders' family history were shown to be unknown quantities to many probation departments. The information consistently provided by departments for most of their cases has been summarized in this appendix. Included along with profiles from each department, are profiles of persons convicted for each of eleven offenses selected for study.

Note that percentages have normally been adjusted to reflect only those cases for which a particular variable was known. When numbers do not tally, this reflects incomplete data provided us.



STATEWIDE

Profile of Felony Probationers
-Selected Departments-

41% District Court convictions receiving probated sentence*
39% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

48 Median length of probated sentence (months)

Percent	Number	
<u>56%</u>	<u>1302</u>	Offenses vs. property
<u>20%</u>	<u>457</u>	Offenses vs. public order and decency
<u>12%</u>	<u>271</u>	Offenses vs. a person
--	<u>3</u>	Offenses vs. family
<u>12%</u>	<u>276</u>	Other offenses
<u>97%</u>	<u>2189</u>	Sentenced by court
<u>3%</u>	<u>52</u>	Sentenced by jury
<u>70%</u>	<u>1515</u>	Represented by retained counsel
<u>30%</u>	<u>661</u>	Represented by appointed counsel
<u>62%</u>	<u>1366</u>	Presentence investigation report presented
<u>89%</u>	<u>1596</u>	Plea negotiated
<u>31%</u>	<u>606</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>22</u>	Median age (years)	<u>60%</u>	Employed
<u>58%</u>	less than 23 years of age	<u>40%</u>	Unemployed
<u>11</u>	Median education (years)	<u>25%</u>	Under influence of drugs
<u>55%</u>	less than 12 years education	<u>28%</u>	Under influence of alcohol
<u>33%</u>	Married		
<u>9%</u>	Divorced or separated		
<u>48%</u>	Single		
<u>10%</u>	Other		
<u>41%</u>	With dependents		

* * * * *

	White	Mex-Am.	Black	Other
Male	46% (1024)	18% (412)	23% (515)	0% (7)
Female	7% (160)	2% (39)	4% (89)	0% (1)

Profile of Felony Probationers
-Selected Departments-

Department: Bowie, Cass, Morris, Red River, Titus

61 Total felony probationers received from 1-1-76 to 7-1-76
61% District Court convictions receiving probated sentence*
22% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

86 Median length of probated sentence (months)

Percent	Number	
<u>59%</u>	<u>36</u>	Offenses vs. property
<u>11%</u>	<u>7</u>	Offenses vs. public order and decency
<u>13%</u>	<u>8</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>16%</u>	<u>10</u>	Other offenses
<u>90%</u>	<u>55</u>	Sentenced by court
<u>1%</u>	<u>1</u>	Sentenced by jury
<u>36%</u>	<u>22</u>	Represented by retained counsel
<u>26%</u>	<u>16</u>	Represented by appointed counsel
<u>3%</u>	<u>2</u>	Presentence investigation report presented
<u>23%</u>	<u>14</u>	Plea negotiated
<u>23%</u>	<u>14</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>24</u>	Median age (years)	<u>56%</u>	Employed
<u>59%</u>	less than 23 years of age	<u>44%</u>	Unemployed
<u>11</u>	Median education (years)	<u>9%</u>	Under influence of drugs
<u>69%</u>	less than 12 years education	<u>13%</u>	Under influence of alcohol
<u>33%</u>	Married		
<u>15%</u>	Divorced or separated		
<u>52%</u>	Single		
<u>0%</u>	Other		
<u>41%</u>	With dependents		

* * * * *

	White	Mex-Am.	Black	Other
Male	<u>53% (31)</u>	<u>0% (0)</u>	<u>31% (18)</u>	<u>0% (0)</u>
Female	<u>7% (4)</u>	<u>0% (0)</u>	<u>9% (5)</u>	<u>0% (0)</u>

Profile of Felony Probationers
-Selected Departments-

Department: 1st Judicial District Probation Department

37 Total felony probationers received from 1-1-76 to 7-1-76
75% District Court convictions receiving probated sentence*
24% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

62 Median length of probated sentence (months)

Percent	Number	
<u>84%</u>	<u>31</u>	Offenses vs. property
<u>8%</u>	<u>3</u>	Offenses vs. public order and decency
<u>8%</u>	<u>3</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>0%</u>	<u>0</u>	Other offenses
<u>100%</u>	<u>37</u>	Sentenced by court
<u>0%</u>	<u>0</u>	Sentenced by jury
<u>100%</u>	<u>26</u>	Represented by retained counsel
<u>0%</u>	<u>0</u>	Represented by appointed counsel
<u>100%</u>	<u>37</u>	Presentence investigation report presented
<u>100%</u>	<u>37</u>	Plea negotiated
<u>0%</u>	<u>0</u>	Detained in jail at time of plea

(Status at time of the offense)

<u>23</u>	Median age (years)	<u>68%</u>	Employed
<u>50%</u>	less than 23 years of age	<u>32%</u>	Unemployed
<u>12</u>	Median education (years)	<u>8%</u>	Under influence of drugs
<u>46%</u>	less than 12 years education	<u>3%</u>	Under influence of alcohol
<u>43%</u>	Married		
<u>8%</u>	Divorced or separated		
<u>46%</u>	Single		
<u>3%</u>	Other		
<u>41%</u>	With dependents		

	White	Mex-Am.	Black	Other
Male	76% (28)	0% (0)	24% (9)	0% (0)
Female	0% (0)	0% (0)	0% (0)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Smith

53 Total felony probationers received from 1-1-76 to 7-1-76
59% District Court convictions receiving probated sentence*
33% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

59 Median length of probated sentence (months)

Percent	Number	
<u>26%</u>	<u>14</u>	Offenses vs. property
<u>53%</u>	<u>28</u>	Offenses vs. public order and decency
<u>4%</u>	<u>2</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>17%</u>	<u>9</u>	Other offenses
<u>98%</u>	<u>52</u>	Sentenced by court
<u>2%</u>	<u>1</u>	Sentenced by jury
<u>83%</u>	<u>44</u>	Represented by retained counsel
<u>17%</u>	<u>9</u>	Represented by appointed counsel
<u>71%</u>	<u>37</u>	Presentence investigation report presented
<u>98%</u>	<u>52</u>	Plea negotiated
<u>2%</u>	<u>1</u>	Detained in jail at time of plea

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(Status at time of the offense)

<u>21</u>	Median age (years)	<u>90%</u>	Employed
<u>67%</u>	less than 23 years of age	<u>10%</u>	Unemployed
<u>11</u>	Median education (years)	<u>53%</u>	Under influence of drugs
<u>60%</u>	less than 12 years education	<u>47%</u>	Under influence of alcohol
<u>29%</u>	Married		
<u>16%</u>	Divorced or separated		
<u>22%</u>	Single		
<u>33%</u>	Other		
<u>40%</u>	With dependents		

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	White	Mex-Am.	Black	Other
Male	<u>59% (31)</u>	<u>0% (0)</u>	<u>30% (16)</u>	<u>0% (0)</u>
Female	<u>4% (2)</u>	<u>0% (0)</u>	<u>8% (4)</u>	<u>0% (0)</u>

Profile of Felony Probationers
-Selected Departments-

Department: Harris

330 Total felony probationers received from 5-1-76 to 6-1-76

33% District Court convictions receiving probated sentence*

38% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

49 Median length of probated sentence (months)

Percent	Number	
<u>56%</u>	<u>185</u>	Offenses vs. property
<u>24%</u>	<u>80</u>	Offenses vs. public order and decency
<u>9%</u>	<u>28</u>	Offenses vs. a person
<u>.3%</u>	<u>1</u>	Offenses vs. family
<u>11%</u>	<u>36</u>	Other offenses
<u>98%</u>	<u>322</u>	Sentenced by court
<u>2%</u>	<u>5</u>	Sentenced by jury
<u>72%</u>	<u>229</u>	Represented by retained counsel
<u>28%</u>	<u>89</u>	Represented by appointed counsel
<u>12%</u>	<u>37</u>	Presentence investigation report presented
<u>92%</u>	<u>264</u>	Plea negotiated
<u>30%</u>	<u>92</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>22</u>	Median age (years)	<u>65%</u>	Employed
<u>72%</u>	less than 23 years of age	<u>35%</u>	Unemployed
<u>11</u>	Median education (years)	<u>31%</u>	Under influence of drugs
<u>64%</u>	less than 12 years education	<u>33%</u>	Under influence of alcohol

<u>31%</u>	Married
<u>20%</u>	Divorced or separated
<u>46%</u>	Single
<u>4%</u>	Other

35% With dependents

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	White	Mex-Am.	Black	Other
Male	<u>52% (171)</u>	<u>8% (26)</u>	<u>24% (77)</u>	<u>0% (0)</u>
Female	<u>11% (37)</u>	<u>1% (3)</u>	<u>3% (11)</u>	<u>.3% (1)</u>

Profile of Felony Probationers
-Selected Departments-

Department: Anderson, Henderson, Houston

24 Total felony probationers received from 1-1-76 to 7-1-76
70% District Court convictions receiving probated sentence*
12% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

42 Median length of probated sentence (months)

Percent Number

<u>58%</u>	<u>14</u>	Offenses vs. property
<u>12%</u>	<u>3</u>	Offenses vs. public order and decency
<u>8%</u>	<u>2</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>21%</u>	<u>5</u>	Other offenses
<u>100%</u>	<u>24</u>	Sentenced by court
<u>0%</u>	<u>0</u>	Sentenced by jury
<u>88%</u>	<u>21</u>	Represented by retained counsel
<u>13%</u>	<u>3</u>	Represented by appointed counsel
<u>8%</u>	<u>2</u>	Presentence investigation report presented
<u>85%</u>	<u>17</u>	Plea negotiated
<u>13%</u>	<u>3</u>	Detained in jail at time of plea

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(Status at time of the offense)

<u>31</u>	Median age (years)	<u>86%</u>	Employed
<u>54%</u>	less than 23 years of age	<u>14%</u>	Unemployed
<u>9</u>	Median education (years)	<u>13%</u>	Under influence of drugs
<u>96%</u>	less than 12 years education	<u>29%</u>	Under influence of alcohol

<u>50%</u>	Married
<u>33%</u>	Divorced or separated
<u>17%</u>	Single
<u>0</u>	Other

63% With dependents

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	White	Mex-Am.	Black	Other
Male	71% (17)	8% (2)	21% (5)	0% (0)
Female	0% (0)	0% (0)	0% (0)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Grayson

42 Total felony probationers received from 1-1-76 to 7-1-76

71% District Court convictions receiving probated sentence*

26% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

59 Median length of probated sentence (months)

Percent	Number	
<u>71%</u>	<u>30</u>	Offenses vs. property
<u>2%</u>	<u>1</u>	Offenses vs. public order and decency
<u>21%</u>	<u>9</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>5%</u>	<u>2</u>	Other offenses
<u>81%</u>	<u>34</u>	Sentenced by court
<u>19%</u>	<u>8</u>	Sentenced by jury
<u>81%</u>	<u>34</u>	Represented by retained counsel
<u>19%</u>	<u>8</u>	Represented by appointed counsel
<u>78%</u>	<u>31</u>	Presentence investigation report presented
<u>76%</u>	<u>32</u>	Plea negotiated
<u>19%</u>	<u>8</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>22</u>	Median age (years)	<u>52%</u>	Employed
<u>57%</u>	less than 23 years of age	<u>48%</u>	Unemployed
<u>10</u>	Median education (years)	<u>19%</u>	Under influence of drugs
<u>76%</u>	less than 12 years education	<u>57%</u>	Under influence of alcohol
<u>33%</u>	Married		
<u>5%</u>	Divorced or separated		
<u>60%</u>	Single		
<u>2%</u>	Other		
<u>95%</u>	With dependents		

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	White	Mex-Am.	Black	Other
Male	71% (30)	2% (1)	12% (5)	0% (0)
Female	12% (5)	0% (0)	2% (1)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Dallas

675 Total felony probationers received from 4-1-76 to 7-1-76

41% District Court convictions receiving probated sentence*

42% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

36 Median length of probated sentence (months)

Percent	Number	
<u>57%</u>	<u>382</u>	Offenses vs. property
<u>17%</u>	<u>112</u>	Offenses vs. public order and decency
<u>14%</u>	<u>95</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>13%</u>	<u>86</u>	Other offenses
<u>96%</u>	<u>634</u>	Sentenced by court
<u>1%</u>	<u>6</u>	Sentenced by jury
<u>69%</u>	<u>452</u>	Represented by retained counsel
<u>30%</u>	<u>198</u>	Represented by appointed counsel
<u>96%</u>	<u>630</u>	Presentence investigation report presented
<u>90%</u>	<u>582</u>	Plea negotiated
<u>35%</u>	<u>208</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>23</u>	Median age (years)	<u>59%</u>	Employed
<u>50%</u>	less than 23 years of age	<u>41%</u>	Unemployed
<u>11</u>	Median education (years)	<u>22%</u>	Under influence of drugs
<u>59%</u>	less than 12 years education	<u>21%</u>	Under influence of alcohol

<u>33%</u>	Married
<u>19%</u>	Divorced or separated
<u>47%</u>	Single
<u>2%</u>	Other

41% With dependents

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	White	Mex-Am.	Black	Other
Male	<u>41% (256)</u>	<u>8% (50)</u>	<u>35% (222)</u>	<u>1% (4)</u>
Female	<u>6% (37)</u>	<u>2% (10)</u>	<u>8% (48)</u>	<u>0% (0)</u>

Profile of Felony Probationers
-Selected Departments-

Department: McLennan

36 Total felony probationers received from 1-1-76 to 7-1-76

36% District Court convictions receiving probated sentence*

76% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

55 Median length of probated sentence (months)

Percent	Number	
<u>47%</u>	<u>17</u>	Offenses vs. property
<u>28%</u>	<u>10</u>	Offenses vs. public order and decency
<u>14%</u>	<u>5</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>11%</u>	<u>4</u>	Other offenses
<u>97%</u>	<u>35</u>	Sentenced by court
<u>3%</u>	<u>1</u>	Sentenced by jury
<u>89%</u>	<u>31</u>	Represented by retained counsel
<u>11%</u>	<u>4</u>	Represented by appointed counsel
<u>97%</u>	<u>35</u>	Presentence investigation report presented
<u>100%</u>	<u>36</u>	Plea negotiated
<u>22%</u>	<u>8</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>24</u>	Median age (years)	<u>53%</u>	Employed
<u>44%</u>	less than 23 years of age	<u>47%</u>	Unemployed
<u>11</u>	Median education (years)	<u>11%</u>	Under influence of drugs
<u>61%</u>	less than 12 years education	<u>22%</u>	Under influence of alcohol
<u>19%</u>	Married		
<u>22%</u>	Divorced or separated		
<u>56%</u>	Single		
<u>3%</u>	Other		
<u>44%</u>	With dependents		

* * * * *

	White	Mex-Am.	Black	Other
Male	<u>44% (16)</u>	<u>6% (2)</u>	<u>36% (13)</u>	<u>7% (2)</u>
Female	<u>0% (0)</u>	<u>0% (0)</u>	<u>6% (2)</u>	<u>0% (0)</u>

Profile of Felony Probationers
-Selected Departments-

Department: 21st Judicial District Probation Office

26 Total felony probationers received from 1-1-76 to 7-1-76
66% District Court convictions receiving probated sentence*
19% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

57 Median length of probated sentence (months)

Percent	Number	
<u>35%</u>	<u>9</u>	Offenses vs. property
<u>27%</u>	<u>7</u>	Offenses vs. public order and decency
<u>15%</u>	<u>4</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>23%</u>	<u>6</u>	Other offenses
<u>96%</u>	<u>25</u>	Sentenced by court
<u>4%</u>	<u>1</u>	Sentenced by jury
<u>62%</u>	<u>16</u>	Represented by retained counsel
<u>39%</u>	<u>10</u>	Represented by appointed counsel
<u>12%</u>	<u>3</u>	Presentence investigation report presented
<u>96%</u>	<u>25</u>	Plea negotiated
<u>32%</u>	<u>8</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>20</u>	Median age (years)	<u>81%</u>	Employed
<u>96%</u>	less than 23 years of age	<u>19%</u>	Unemployed
<u>12</u>	Median education (years)	<u>25%</u>	Under influence of drugs
<u>50%</u>	less than 12 years education	<u>56%</u>	Under influence of alcohol
<u>20%</u>	Married		
<u>24%</u>	Divorced or separated		
<u>56%</u>	Single		
<u>0</u>	Other		
<u>15%</u>	With dependents		

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	White	Mex-Am.	Black	Other
Male	<u>50% (13)</u>	<u>12% (3)</u>	<u>35% (9)</u>	<u>0% (0)</u>
Female	<u>0% (0)</u>	<u>0% (0)</u>	<u>4% (2)</u>	<u>0% (0)</u>

Profile of Felony Probationers
-Selected Departments-

Department: Travis

151 Total felony probationers received from 1-1-76 to 7-1-76
55% District Court convictions receiving probated sentence*
23% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

37 Median length of probated sentence (months)

Percent	Number	
<u>58%</u>	<u>88</u>	Offenses vs. property
<u>13%</u>	<u>20</u>	Offenses vs. public order and decency
<u>11%</u>	<u>17</u>	Offenses vs. a person
<u>1%</u>	<u>2</u>	Offenses vs. family
<u>16%</u>	<u>24</u>	Other offenses
<u>96%</u>	<u>134</u>	Sentenced by court
<u>4%</u>	<u>6</u>	Sentenced by jury
<u>60%</u>	<u>82</u>	Represented by retained counsel
<u>40%</u>	<u>54</u>	Represented by appointed counsel
<u>93%</u>	<u>141</u>	Presentence investigation report presented
<u>92%</u>	<u>126</u>	Plea negotiated
<u>41%</u>	<u>54</u>	Detained in jail at time of plea

* * * * *
(Status at time of the offense)

<u>23</u>	Median age (years)	<u>58%</u>	Employed
<u>58%</u>	less than 23 years of age	<u>42%</u>	Unemployed
<u>11</u>	Median education (years)	<u>20%</u>	Under influence of drugs
<u>46%</u>	less than 12 years education	<u>37%</u>	Under influence of alcohol
<u>26%</u>	Married		
<u>23%</u>	Divorced or separated		
<u>49%</u>	Single		
<u>2%</u>	Other		

36% With dependents

* * * * *

	White	Mex-Am.	Black	Other
Male	46% (69)	12% (18)	24% (36)	0% (0)
Female	13% (19)	1% (2)	5% (7)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Bexar

199 Total felony probationers received from 1-1-76 to 7-1-76

41% District Court convictions receiving probated sentence*

44% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

43 Median length of probated sentence (months)

Percent	Number	
<u>51%</u>	<u>101</u>	Offenses vs. property
<u>32%</u>	<u>63</u>	Offenses vs. public order and decency
<u>11%</u>	<u>22</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>6%</u>	<u>13</u>	Other offenses
<u>100%</u>	<u>199</u>	Sentenced by court
<u>0%</u>	<u>0</u>	Sentenced by jury
<u>70%</u>	<u>123</u>	Represented by retained counsel
<u>30%</u>	<u>53</u>	Represented by appointed counsel
<u>87%</u>	<u>173</u>	Presentence investigation report presented
<u>Unk.</u>	<u>Unk.</u>	Plea negotiated
<u>15%</u>	<u>25</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>22</u>	Median age (years)	<u>64%</u>	Employed
<u>58%</u>	less than 23 years of age	<u>36%</u>	Unemployed
<u>11</u>	Median education (years)	<u>62%</u>	Under influence of drugs
<u>60%</u>	less than 12 years education	<u>34%</u>	Under influence of alcohol
<u>34%</u>	Married		
<u>9%</u>	Divorced or separated		
<u>49%</u>	Single		
<u>8%</u>	Other		
<u>41%</u>	With dependents		

* * * * *

	White	Mex-Am.	Black	Other
Male	45% (89)	31% (60)	13% (25)	0% (0)
Female	9% (17)	2% (4)	1% (1)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Cameron

118 Total felony probationers received from 1-1-76 to 7-1-76
67% District Court convictions receiving probated sentence*
24% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

.36 Median length of probated sentence (months)

Percent	Number	
<u>52%</u>	<u>62</u>	Offenses vs. property
<u>19%</u>	<u>22</u>	Offenses vs. public order and decency
<u>13%</u>	<u>15</u>	Offenses vs. a person
<u>-</u>	<u>-</u>	Offenses vs. family
<u>16%</u>	<u>19</u>	Other offenses
<u>95%</u>	<u>99</u>	Sentenced by court
<u>5%</u>	<u>5</u>	Sentenced by jury
<u>80%</u>	<u>91</u>	Represented by retained counsel
<u>20%</u>	<u>23</u>	Represented by appointed counsel
<u>76%</u>	<u>89</u>	Presentence investigation report presented
<u>Unk.</u>	<u>Unk.</u>	Plea negotiated
<u>89%</u>	<u>79</u>	Detained in jail at time of plea

* * * * *
(Status at time of the offense)

<u>21</u>	Median age (years)	<u>49%</u>	Employed
<u>62%</u>	less than 23 years of age	<u>51%</u>	Unemployed
<u>10</u>	Median education (years)	<u>12%</u>	Under influence of drugs
<u>84%</u>	less than 12 years education	<u>45%</u>	Under influence of alcohol
<u>40%</u>	Married		
<u>4%</u>	Divorced or separated		
<u>50%</u>	Single		
<u>6%</u>	Other		

36% With dependents
* * * * *

	White	Mex-Am.	Black	Other
Male	15% (18)	76% (88)	0% (0)	0% (0)
Female	3% (4)	5% (6)	0% (0)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Hidalgo

69 Total felony probationers received from 1-1-76 to 4-1-76
65% District Court convictions receiving probated sentence*
33% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

45 Median length of probated sentence (months)

Percent	Number	
<u>39%</u>	<u>27</u>	Offenses vs. property
<u>38%</u>	<u>26</u>	Offenses vs. public order and decency
<u>12%</u>	<u>8</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>12%</u>	<u>8</u>	Other offenses
<u>100%</u>	<u>69</u>	Sentenced by court
<u>0%</u>	<u>0</u>	Sentenced by jury
<u>99%</u>	<u>68</u>	Represented by retained counsel
<u>1%</u>	<u>1</u>	Represented by appointed counsel
<u>44%</u>	<u>30</u>	Presentence investigation report presented

Not indicated Plea negotiated

Not indicated Detained in jail at time of plea

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(Status at time of the offense)

<u>22</u>	Median age (years)	<u>41%</u>	Employed
<u>55%</u>	less than 23 years of age	<u>59%</u>	Unemployed
<u>11</u>	Median education (years)	<u>1%</u>	Under influence of drugs
<u>58%</u>	less than 12 years education	<u>0%</u>	Under influence of alcohol
<u>39%</u>	Married		
<u>12%</u>	Divorced or separated		
<u>48%</u>	Single		
<u>1%</u>	Other		
<u>44%</u>	With dependents		

* * * * *

	White	Mex-Am.	Black	Other
Male	23% (16)	74% (51)	0% (0)	0% (0)
Female	1% (1)	1% (1)	0% (0)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: 32nd Judicial District Probation Department

37 Total felony probationers received from 1-1-76 to 7-1-76
66% District Court convictions receiving probated sentence*
33% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

25 Median length of probated sentence (months)

Percent	Number	
<u>49%</u>	<u>17</u>	Offenses vs. property
<u>5%</u>	<u>2</u>	Offenses vs. public order and decency
<u>5%</u>	<u>2</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>43%</u>	<u>16</u>	Other offenses
<u>100%</u>	<u>37</u>	Sentenced by court
<u>0%</u>	<u>0</u>	Sentenced by jury
<u>43%</u>	<u>16</u>	Represented by retained counsel
<u>57%</u>	<u>21</u>	Represented by appointed counsel
<u>0%</u>	<u>0</u>	Presentence investigation report presented
<u>100%</u>	<u>37</u>	Plea negotiated

Not indicated Detained in jail at time of plea
 * * * * *
 (Status at time of the offense)

<u>24</u>	Median age (years)	<u>74%</u>	Employed
<u>43%</u>	less than 23 years of age	<u>27%</u>	Unemployed
<u>10</u>	Median education (years)	<u>11%</u>	Under influence of drugs
<u>68%</u>	less than 12 years education	<u>37%</u>	Under influence of alcohol
<u>56%</u>	Married		
<u>6%</u>	Divorced or separated		
<u>39%</u>	Single		
<u>0%</u>	Other		

68% With dependents
 * * * * *

	White	Mex-Am.	Black	Other
Male	<u>43% (16)</u>	<u>35% (13)</u>	<u>5% (2)</u>	<u>0% (0)</u>
Female	<u>11% (4)</u>	<u>3% (1)</u>	<u>3% (1)</u>	<u>0% (0)</u>

Profile of Felony Probationers
-Selected Departments-

Department: Tom Green, Coke, Concho, Irion, Schleicher, Sterling

52 Total felony probationers received from 1-1-76 to 7-1-76

62% District Court convictions receiving probated sentence*

30% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

40 Median length of probated sentence (months)

Percent	Number	
<u>40%</u>	<u>21</u>	Offenses vs. property
<u>27%</u>	<u>14</u>	Offenses vs. public order and decency
<u>23%</u>	<u>12</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>10%</u>	<u>5</u>	Other offenses
<u>96%</u>	<u>50</u>	Sentenced by court
<u>4%</u>	<u>2</u>	Sentenced by jury
<u>67%</u>	<u>35</u>	Represented by retained counsel
<u>33%</u>	<u>17</u>	Represented by appointed counsel
<u>14%</u>	<u>7</u>	Presentence investigation report presented
<u>96%</u>	<u>50</u>	Plea negotiated
<u>33%</u>	<u>16</u>	Detained in jail at time of plea

(Status at time of the offense)

<u>21</u>	Median age (years)	<u>47%</u>	Employed
<u>64%</u>	less than 23 years of age	<u>53%</u>	Unemployed
<u>11</u>	Median education (years)	<u>64%</u>	Under influence of drugs
<u>56%</u>	less than 12 years education	<u>89%</u>	Under influence of alcohol
<u>28%</u>	Married		
<u>22%</u>	Divorced or separated		
<u>51%</u>	Single		
<u>0%</u>	Other		
<u>39%</u>	With dependents		

	White	Mex-Am.	Black	Other
Male	<u>60% (31)</u>	<u>19% (10)</u>	<u>14% (7)</u>	<u>0% (0)</u>
Female	<u>8% (4)</u>	<u>0% (0)</u>	<u>0% (0)</u>	<u>0% (0)</u>

Profile of Felony Probationers
-Selected Departments-

Department: Val Verde, Edwards, Kinney, Maverick, Terrell

26 Total felony probationers received from 1-1-76 to 7-1-76

67% District Court convictions receiving probated sentence*

33% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

54 Median length of probated sentence (months)

Percent	Number	
<u>65%</u>	<u>17</u>	Offenses vs. property
<u>4%</u>	<u>1</u>	Offenses vs. public order and decency
<u>27%</u>	<u>7</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>4%</u>	<u>1</u>	Other offenses
<u>89%</u>	<u>23</u>	Sentenced by court
<u>12%</u>	<u>3</u>	Sentenced by jury
<u>62%</u>	<u>16</u>	Represented by retained counsel
<u>39%</u>	<u>10</u>	Represented by appointed counsel
<u>31%</u>	<u>8</u>	Presentence investigation report presented
<u>60%</u>	<u>15</u>	Plea negotiated
<u>96%</u>	<u>25</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>22</u>	Median age (years)	<u>62%</u>	Employed
<u>56%</u>	less than 23 years of age	<u>39%</u>	Unemployed
<u>10</u>	Median education (years)	<u>4%</u>	Under influence of drugs
<u>73%</u>	less than 12 years education	<u>8%</u>	Under influence of alcohol
<u>39%</u>	Married		
<u>0%</u>	Divorced or separated		
<u>58%</u>	Single		
<u>4%</u>	Other		

23% With dependents

* * * * *

	White	Mex-Am.	Black	Other
Male	46% (12)	31% (8)	4% (1)	0% (0)
Female	8% (2)	12% (3)	0% (0)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Potter, Armstrong, Randall

165 Total felony probationers received from 1-1-76 to 7-1-76
54% District Court convictions receiving probated sentence*
48% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

Median length of probated sentence (months)

Percent	Number	
<u>62%</u>	<u>103</u>	Offenses vs. property
<u>13%</u>	<u>21</u>	Offenses vs. public order and decency
<u>9%</u>	<u>15</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>16%</u>	<u>26</u>	Other offenses
<u>99%</u>	<u>163</u>	Sentenced by court
<u>1%</u>	<u>2</u>	Sentenced by jury
<u>42%</u>	<u>65</u>	Represented by retained counsel
<u>58%</u>	<u>89</u>	Represented by appointed counsel
<u>10%</u>	<u>13</u>	Presentence investigation report presented
<u>99%</u>	<u>164</u>	Plea negotiated
<u>20%</u>	<u>28</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>21</u>	Median age (years)	<u>58%</u>	Employed
<u>59%</u>	less than 23 years of age	<u>42%</u>	Unemployed
<u>11%</u>	Median education (years)	<u>17%</u>	Under influence of drugs
<u>69%</u>	less than 12 years education	<u>22%</u>	Under influence of alcohol
<u>27%</u>	Married		
<u>17%</u>	Divorced or separated		
<u>50%</u>	Single		
<u>6%</u>	Other		
<u>33%</u>	With dependents		

* * * * *

	White	Mex-Am.	Black	Other
Male	53% (88)	12% (20)	22% (36)	1% (1)
Female	8% (13)	1% (1)	4% (6)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Lubbock, Crosby

105 Total felony probationers received from 1-1-76 to 7-1-76
57% District Court convictions receiving probated sentence*
52% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

48 Median length of probated sentence (months)

Percent	Number	
<u>68%</u>	<u>71</u>	Offenses vs. property
<u>21%</u>	<u>22</u>	Offenses vs. public order and decency
<u>9%</u>	<u>9</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>3%</u>	<u>3</u>	Other offenses
<u>94%</u>	<u>99</u>	Sentenced by court
<u>6%</u>	<u>6</u>	Sentenced by jury
<u>82%</u>	<u>84</u>	Represented by retained counsel
<u>18%</u>	<u>19</u>	Represented by appointed counsel
<u>5%</u>	<u>5</u>	Presentence investigation report presented
<u>91%</u>	<u>95</u>	Plea negotiated
<u>8%</u>	<u>8</u>	Detained in jail at time of plea

* * * * *
(Status at time of the offense)

<u>21</u>	Median age (years)	<u>57%</u>	Employed
<u>65%</u>	less than 23 years of age	<u>43%</u>	Unemployed
<u>11</u>	Median education (years)	<u>0%</u>	Under influence of drugs
<u>58%</u>	less than 12 years education	<u>0%</u>	Under influence of alcohol
<u>34%</u>	Married		
<u>10%</u>	Divorced or separated		
<u>54%</u>	Single		
<u>2%</u>	Other		

35% With dependents

* * * * *

	White	Mex-Am.	Black	Other
Male	38% (38)	28% (28)	22% (22)	0% (0)
Female	8% (8)	4% (4)	0% (0)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Terry

25 Total felony probationers received from 1-1-76 to 7-1-76
59% District Court convictions receiving probated sentence*
37% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

57 Median length of probated sentence (months)

Percent	Number	
<u>76%</u>	<u>19</u>	Offenses vs. property
<u>8%</u>	<u>2</u>	Offenses vs. public order and decency
<u>16%</u>	<u>4</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>0%</u>	<u>0</u>	Other offenses
<u>92%</u>	<u>23</u>	Sentenced by court
<u>8%</u>	<u>2</u>	Sentenced by jury
<u>56%</u>	<u>14</u>	Represented by retained counsel
<u>44%</u>	<u>11</u>	Represented by appointed counsel
<u>92%</u>	<u>23</u>	Presentence investigation report presented
<u>44%</u>	<u>11</u>	Plea negotiated
<u>28%</u>	<u>7</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>26</u>	Median age (years)	<u>76%</u>	Employed
<u>24%</u>	less than 23 years of age	<u>24%</u>	Unemployed
<u>9</u>	Median education (years)	<u>21%</u>	Under influence of drugs
<u>84%</u>	less than 12 years education	<u>59%</u>	Under influence of alcohol
<u>60%</u>	Married		
<u>0%</u>	Divorced or separated		
<u>40%</u>	Single		
<u>0%</u>	Other		

60% With dependents

* * * * *

	White	Mex-Am.	Black	Other
Male	17% (4)	42% (10)	17% (4)	0% (0)
Female	13% (3)	13% (3)	0% (0)	0% (0)

Profile of Felony Probationers
-Selected Departments-

Department: Midland

29 Total felony probationers received from 1-1-76 to 7-1-76
62% District Court convictions receiving probated sentence*
40% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

60 Median length of probated sentence (months)

Percent	Number	
<u>66%</u>	<u>19</u>	Offenses vs. property
<u>28%</u>	<u>8</u>	Offenses vs. public order and decency
<u>3%</u>	<u>1</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>3%</u>	<u>1</u>	Other offenses
<u>100%</u>	<u>29</u>	Sentenced by court
<u>0%</u>	<u>0</u>	Sentenced by jury
<u>59%</u>	<u>17</u>	Represented by retained counsel
<u>41%</u>	<u>12</u>	Represented by appointed counsel
<u>100%</u>	<u>25</u>	Presentence investigation report presented
<u>96%</u>	<u>25</u>	Plea negotiated
<u>33%</u>	<u>9</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>Not given</u>	Median age (years)	<u>75%</u>	Employed
<u>100%</u>	less than 23 years of age	<u>25%</u>	Unemployed
<u>11</u>	Median education (years)	<u>19%</u>	Under influence of drugs
<u>62%</u>	less than 12 years education	<u>25%</u>	Under influence of alcohol
<u>24%</u>	Married		
<u>7%</u>	Divorced or separated		
<u>66%</u>	Single		
<u>3%</u>	Other		
<u>24%</u>	With dependents		

* * * * *

	White	Mex-Am.	Black	Other
Male	<u>62% (18)</u>	<u>21% (6)</u>	<u>14% (4)</u>	<u>0% (0)</u>
Female	<u>0% (0)</u>	<u>0% (0)</u>	<u>3% (1)</u>	<u>0% (0)</u>

Profile of Felony Probationers
-Selected Departments-

Department: West Texas Regional Adult Probation Department

56 Total felony probationers received from 1-1-76 to 7-1-76
42% District Court convictions receiving probated sentence*
52% District Court convictions on which sentence executed*

*Information taken from Texas Judicial Council District Court Statistics for 1976. Inconsistencies due to docket activity, revocation and appeals procedures are not reconcilable.

64% Median length of probated sentence (months)

Percent	Number	
<u>71%</u>	<u>40</u>	Offenses vs. property
<u>14%</u>	<u>8</u>	Offenses vs. public order and decency
<u>11%</u>	<u>6</u>	Offenses vs. a person
<u>0%</u>	<u>0</u>	Offenses vs. family
<u>4%</u>	<u>2</u>	Other offenses
<u>93%</u>	<u>52</u>	Sentenced by court
<u>7%</u>	<u>4</u>	Sentenced by jury
<u>65%</u>	<u>30</u>	Represented by retained counsel
<u>35%</u>	<u>16</u>	Represented by appointed counsel
<u>78%</u>	<u>42</u>	Presentence investigation report presented
<u>31%</u>	<u>11</u>	Plea negotiated
<u>29%</u>	<u>15</u>	Detained in jail at time of plea

* * * * *

(Status at time of the offense)

<u>21</u>	Median age (years)	<u>46%</u>	Employed
<u>70%</u>	less than 23 years of age	<u>54%</u>	Unemployed
<u>11</u>	Median education (years)	<u>38%</u>	Under influence of drugs
<u>40%</u>	less than 12 years education	<u>35%</u>	Under influence of alcohol
<u>34%</u>	Married		
<u>11%</u>	Divorced or separated		
<u>55%</u>	Single		
<u>0%</u>	Other		

43% With dependents

* * * * *

	White	Mex-Am.	Black	Other
Male	<u>64%</u> (35)	<u>29%</u> (16)	<u>4%</u> (2)	<u>0%</u> (0)
Female	<u>0%</u> (0)	<u>2%</u> (1)	<u>2%</u> (1)	<u>0%</u> (0)

Profile of Felons Placed on Probation for

DRIVING WHILE INTOXICATED

in profile: 158
 % of entire sample: 7%

Age	Less than 20 years	<u>4%</u>
	20 - 29 years	<u>16%</u>
	30 - 39 years	<u>18%</u>
	40 and over	<u>62%</u>
	Not given	<u>--</u>
Race	Anglo	<u>58%</u>
	Spanish surname	<u>23%</u>
	Black	<u>19%</u>
	Other	<u>0%</u>
Sex	Male	<u>94%</u>
	Female	<u>6%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>78%</u>
	Unemployed	<u>22%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>6%</u>
	Unknown	<u>48%</u>
	None	<u>46%</u>
Alcohol Use*	Known	<u>85%</u>
	Unknown	<u>8%</u>
	None	<u>6%</u>
Education	Less than high school	<u>62%</u>
	High school graduate	<u>27%</u>
	Higher education	<u>11%</u>

*At time of offense

Profile of Felons Placed on Probation for

BURGLARY OF HABITATION

in profile: 140
 % of entire sample: 6%

Age	Less than 20 years	<u>39%</u>
	20 - 29 years	<u>54%</u>
	30 - 39 years	<u>6%</u>
	40 and over	<u>1%</u>
	Not given	<u>--</u>
Race	Anglo	<u>40%</u>
	Spanish surname	<u>24%</u>
	Black	<u>35%</u>
	Other	<u>1%</u>
Sex	Male	<u>94%</u>
	Female	<u>6%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>41%</u>
	Unemployed	<u>59%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>27%</u>
	Unknown	<u>32%</u>
	None	<u>41%</u>
Alcohol Use*	Known	<u>28%</u>
	Unknown	<u>27%</u>
	None	<u>45%</u>
Education	Less than high school	<u>74%</u>
	High school graduate	<u>21%</u>
	Higher education	<u>4%</u>

*At time of offense

Profile of Felons Placed on Probation for

BURGLARY (not of habitation)

in profile: 274
 % of entire sample: 11%

Age	Less than 20 years	<u>54%</u>
	20 - 29 years	<u>37%</u>
	30 - 39 years	<u>6%</u>
	40 and over	<u>2%</u>
	Not given	<u>--</u>
Race	Anglo	<u>54%</u>
	Spanish surname	<u>24%</u>
	Black	<u>22%</u>
	Other	<u>0%</u>
Sex	Male	<u>93%</u>
	Female	<u>7%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>47%</u>
	Unemployed	<u>53%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>24%</u>
	Unknown	<u>35%</u>
	None	<u>41%</u>
Alcohol Use*	Known	<u>29%</u>
	Unknown	<u>28%</u>
	None	<u>43%</u>
Education	Less than high school	<u>74%</u>
	High school graduate	<u>20%</u>
	Higher education	<u>6%</u>

*At time of offense

Profile of Felons Placed on Probation for

THEFT BY INSTRUMENT

in profile: 187
 % of entire sample: 8%

Age	Less than 20 years	<u>22%</u>
	20 - 29 years	<u>59%</u>
	30 - 39 years	<u>12%</u>
	40 and over	<u>6%</u>
	Not given	<u>--</u>
Race	Anglo	<u>56%</u>
	Spanish surname	<u>14%</u>
	Black	<u>29%</u>
	Other	<u>1%</u>
Sex	Male	<u>60%</u>
	Female	<u>40%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>58%</u>
	Unemployed	<u>42%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>20%</u>
	Unknown	<u>38%</u>
	None	<u>42%</u>
Alcohol Use*	Known	<u>14%</u>
	Unknown	<u>46%</u>
	None	<u>40%</u>
Education	Less than high school	<u>49%</u>
	High school graduate	<u>36%</u>
	Higher education	<u>15%</u>

*At time of offense

Profile of Felons Placed on Probation for
DELIVERY & SALE OF A CONTROLLED SUBSTANCE

in profile: 116
 % of entire sample: 5%

Age	Less than 20 years	<u>33%</u>
	20 - 29 years	<u>55%</u>
	30 - 39 years	<u>6%</u>
	40 and over	<u>6%</u>
	Not given	<u>--</u>
Race	Anglo	<u>72%</u>
	Spanish surname	<u>13%</u>
	Black	<u>15%</u>
	Other	<u>0%</u>
Sex	Male	<u>82%</u>
	Female	<u>18%</u>
	Not given	<u>0%</u>
Employment*	Employed	<u>70%</u>
	Unemployed	<u>26%</u>
	Not given	<u>4%</u>
Drug Use*	Known	<u>71%</u>
	Unknown	<u>18%</u>
	None	<u>11%</u>
Alcohol Use*	Known	<u>23%</u>
	Unknown	<u>41%</u>
	None	<u>35%</u>
Education	Less than high school	<u>38%</u>
	High school graduate	<u>45%</u>
	Higher education	<u>17%</u>

*At time of offense

Profile of Felons Placed on Probation for

GENERAL THEFT

in profile: 469
 % of entire sample: 19%

Age	Less than 20 years	<u>35%</u>
	20 - 29 years	<u>43%</u>
	30 - 39 years	<u>13%</u>
	40 and over	<u>9%</u>
	Not given	<u>--</u>
Race	Anglo	<u>50%</u>
	Spanish surname	<u>19%</u>
	Black	<u>31%</u>
	Other	<u>0%</u>
Sex	Male	<u>89%</u>
	Female	<u>11%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>58%</u>
	Unemployed	<u>42%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>14%</u>
	Unknown	<u>38%</u>
	None	<u>48%</u>
Alcohol Use*	Known	<u>14%</u>
	Unknown	<u>35%</u>
	None	<u>50%</u>
Education	Less than high school	<u>64%</u>
	High school graduate	<u>25%</u>
	Higher education	<u>10%</u>

*At time of offense

Profile of Felons Placed on Probation for

ASSAULT

in profile: 129
 % of entire sample: 5%

Age	Less than 20 years	<u>13%</u>
	20 - 29 years	<u>50%</u>
	30 - 39 years	<u>21%</u>
	40 and over	<u>16%</u>
	Not given	<u>--</u>
Race	Anglo	<u>41%</u>
	Spanish surname	<u>24%</u>
	Black	<u>34%</u>
	Other	<u>1%</u>
Sex	Male	<u>85%</u>
	Female	<u>15%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>60%</u>
	Unemployed	<u>40%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>16%</u>
	Unknown	<u>44%</u>
	None	<u>40%</u>
Alcohol Use*	Known	<u>43%</u>
	Unknown	<u>22%</u>
	None	<u>35%</u>
Education	Less than high school	<u>65%</u>
	High school graduate	<u>30%</u>
	Higher education	<u>5%</u>

*At time of offense

Profile of Felons Placed on Probation for
ROBBERY

in profile: 79
% of entire sample: 3%

Age	Less than 20 years	<u>30%</u>
	20 - 29 years	<u>54%</u>
	30 - 39 years	<u>8%</u>
	40 and over	<u>8%</u>
	Not given	<u>--</u>
Race	Anglo	<u>47%</u>
	Spanish surname	<u>19%</u>
	Black	<u>33%</u>
	Other	<u>0%</u>
Sex	Male	<u>83%</u>
	Female	<u>17%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>60%</u>
	Unemployed	<u>40%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>22%</u>
	Unknown	<u>30%</u>
	None	<u>47%</u>
Alcohol Use*	Known	<u>27%</u>
	Unknown	<u>25%</u>
	None	<u>48%</u>
Education	Less than high school	<u>56%</u>
	High school graduate	<u>32%</u>
	Higher education	<u>11%</u>

*At time of offense

Profile of Felons Placed on Probation for

HOMICIDE/MURDER

in profile: 48
 % of entire sample: 2%

Age	Less than 20 years	<u>16%</u>
	20 - 29 years	<u>30%</u>
	30 - 39 years	<u>19%</u>
	40 and over	<u>35%</u>
	Not given	<u>--</u>
Race	Anglo	<u>37%</u>
	Spanish surname	<u>23%</u>
	Black	<u>40%</u>
	Other	<u>0%</u>
Sex	Male	<u>79%</u>
	Female	<u>21%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>79%</u>
	Unemployed	<u>21%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>24%</u>
	Unknown	<u>54%</u>
	None	<u>22%</u>
Alcohol Use*	Known	<u>33%</u>
	Unknown	<u>41%</u>
	None	<u>26%</u>
Education	Less than high school	<u>54%</u>
	High school graduate	<u>35%</u>
	Higher education	<u>11%</u>

*At time of offense

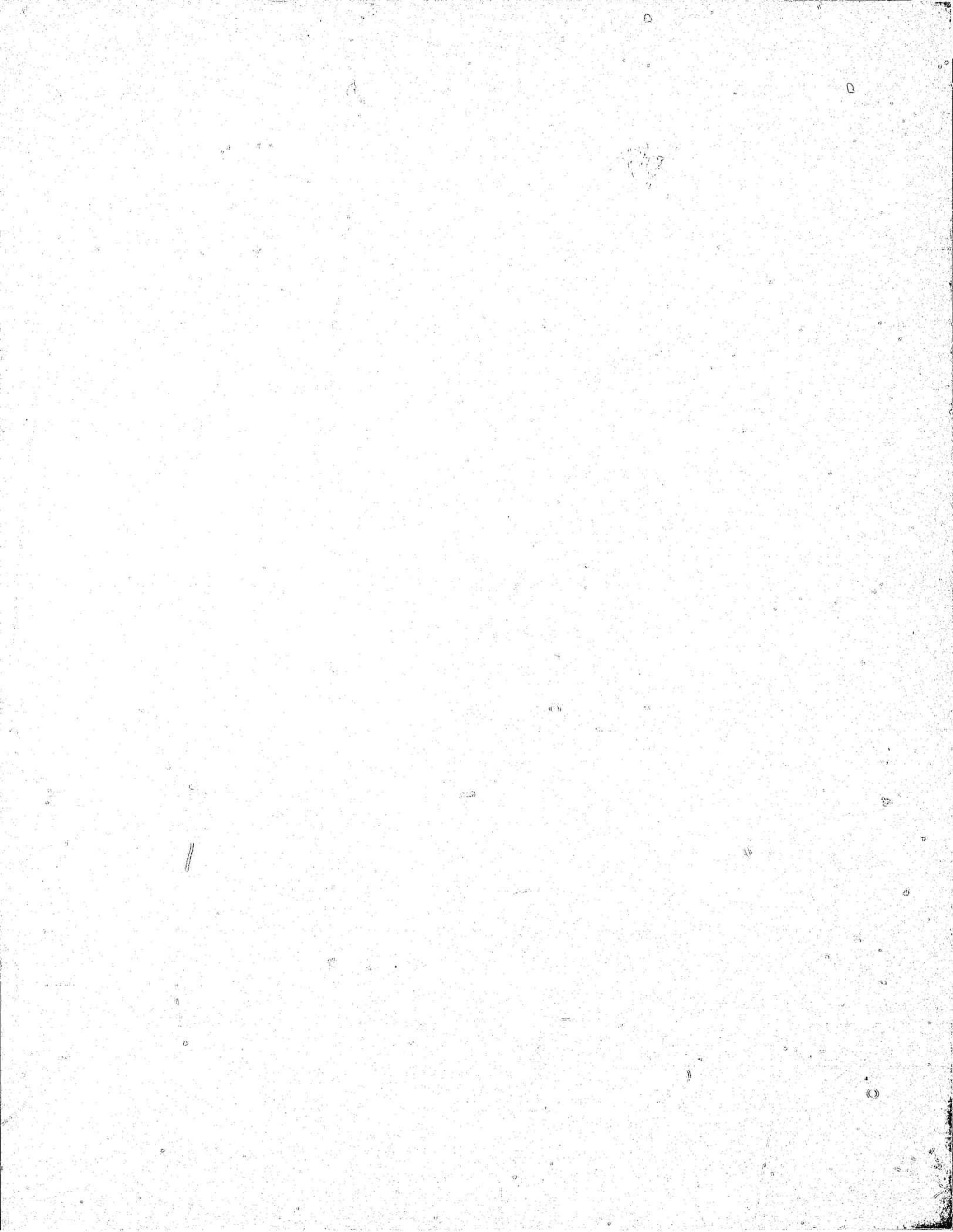
Profile of Felons Placed on Probation for

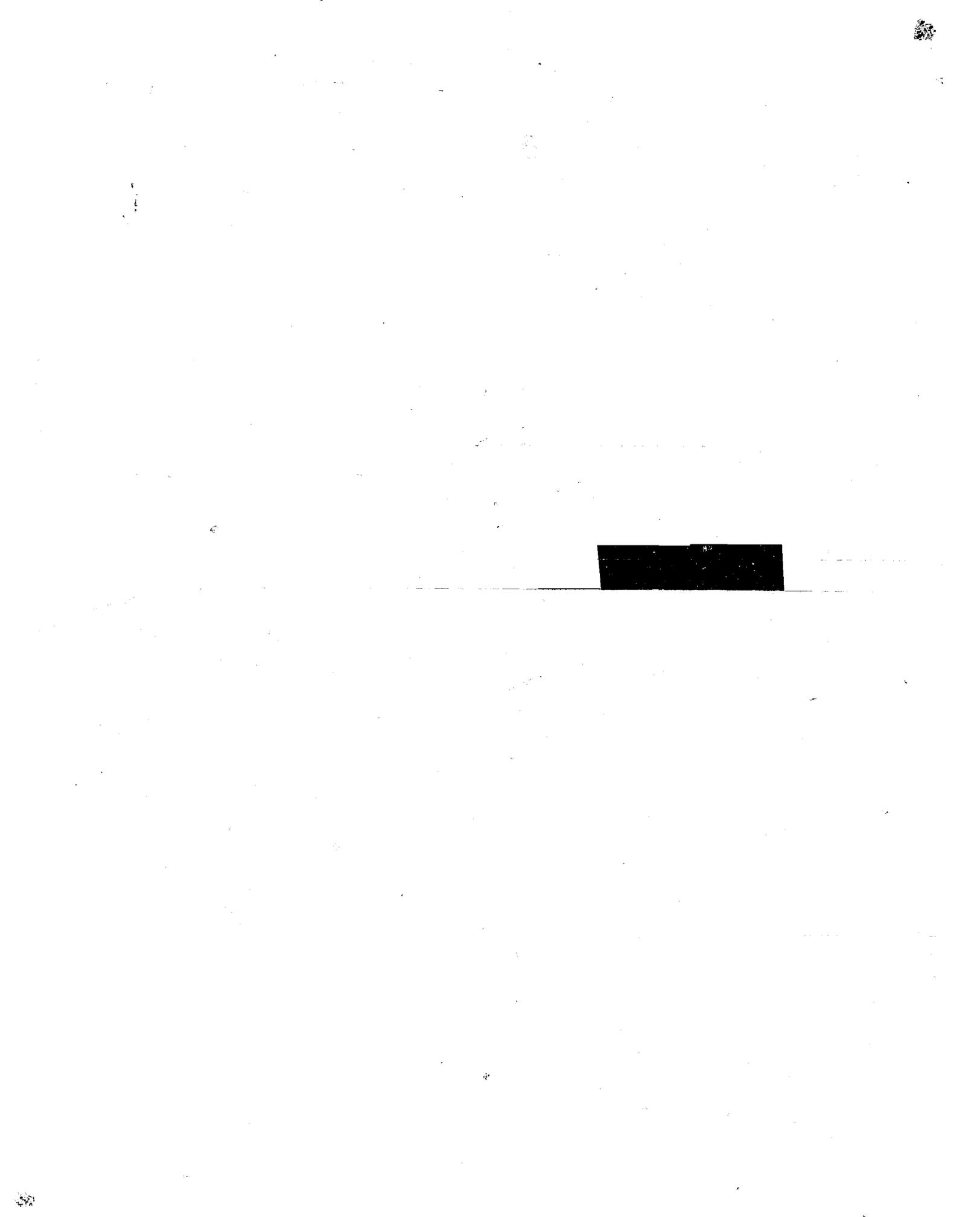
SEX OFFENSES

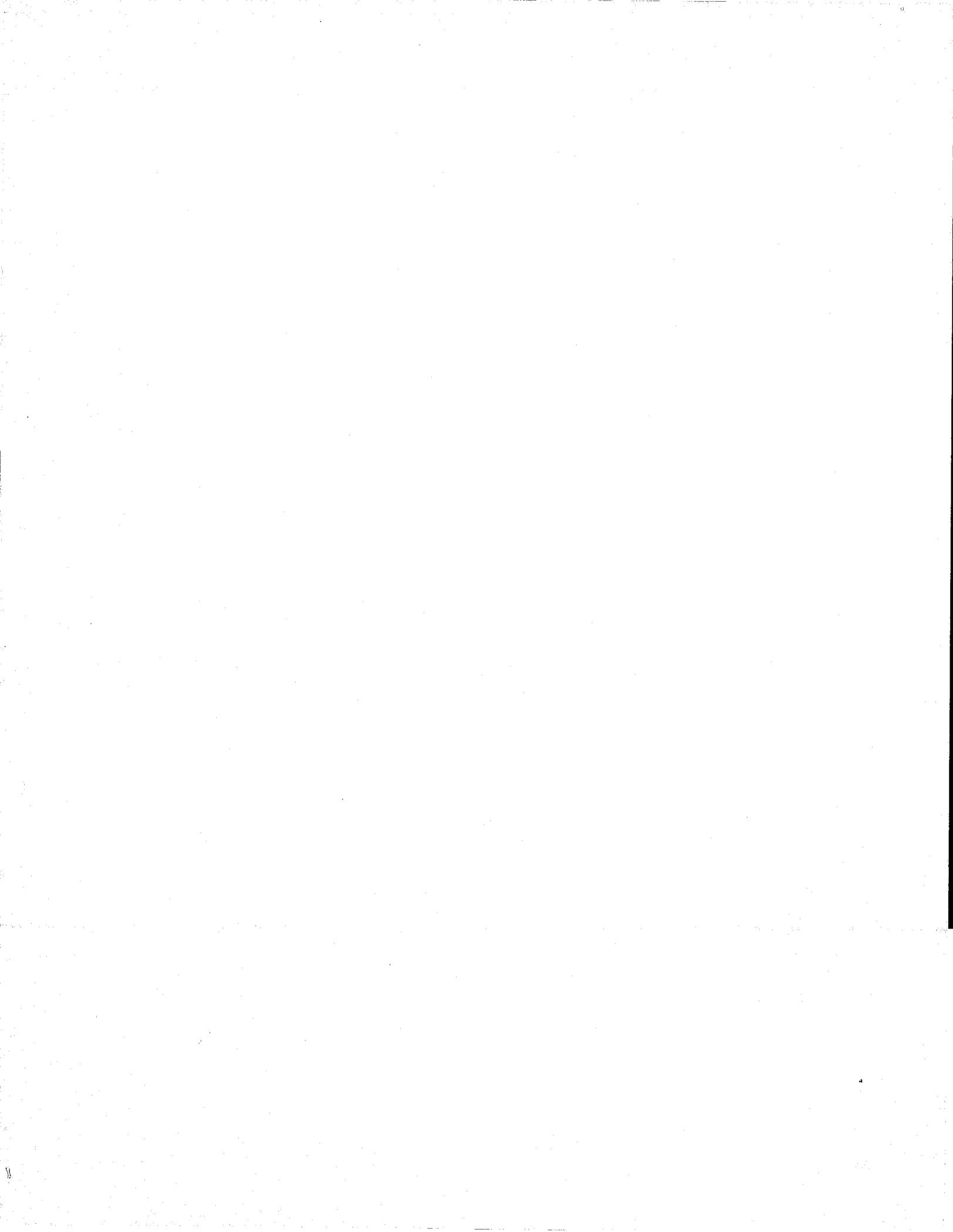
in profile: 69
 % of entire sample: 3%

Age	Less than 20 years	<u>22%</u>
	20 - 29 years	<u>43%</u>
	30 - 39 years	<u>19%</u>
	40 and over	<u>16%</u>
	Not given	<u>--</u>
Race	Anglo	<u>58%</u>
	Spanish surname	<u>19%</u>
	Black	<u>23%</u>
	Other	<u>0%</u>
Sex	Male	<u>87%</u>
	Female	<u>13%</u>
	Not given	<u>--</u>
Employment*	Employed	<u>76%</u>
	Unemployed	<u>24%</u>
	Not given	<u>--</u>
Drug Use*	Known	<u>14%</u>
	Unknown	<u>53%</u>
	None	<u>33%</u>
Alcohol Use*	Known	<u>32%</u>
	Unknown	<u>37%</u>
	None	<u>31%</u>
Education	Less than high school	<u>53%</u>
	High school graduate	<u>33%</u>
	Higher education	<u>14%</u>

*At time of offense







FACILITY & EQUIPMENT OF
ADULT PROBATION DEPARTMENT

NAME OF DEPARTMENT: _____

COUNTY OF HEADQUARTERS: _____

NAME OF PERSON FILLING OUT QUESTIONNAIRE: _____

1. Are all adult probation functions and services conducted out of a central office? _____yes _____no

2. Is the central office located in:

- a. the courthouse? _____
- b. the courthouse annex? _____
- c. private owned office space? _____
- d. other county owned property? _____
- e. other county leased property? _____
- f. city owned property? _____

3. Does this department have jurisdiction and responsibility in both adult and juvenile? _____yes* _____no

*Are both worked out of the same office? _____yes _____no

4. If all functions of the adult probation department are not worked out of a central office, what functions are not? (Do not list other counties worked unless space is designated for probation, with a phone, desk, etc.)

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

5. How far (approximate distance) is each of the functions answered in No. 4 located from the courts served by this department?

- a. _____ d. _____
- b. _____ e. _____
- c. _____

6. Is it important that the function in No. 4 be located close to the courts served by the department?

- a. ____yes ____no d. ____yes ____no
- b. ____yes ____no e. ____yes ____no
- c. ____yes ____no

7. Explain any limitations experienced by the location of the department's offices. _____

PLEASE MAKE AND USE EXTRA COPIES OF QUESTIONS 8-28 FOR EACH FACILITY DISCUSSED.

INSTRUCTIONS FOR #8 ONLY: Do not include any space not designated for full-time use by department. Give the number of staff in blank provided before each title where applicable. Although one person may have several functional titles, count that person only once.

8. What is the present approximate square foot space provided for each of the following:

Name of facility: _____

- a. chief _____ sq. ft.
- b. asst. chief _____ sq. ft.
- c. _____ adm. assistants _____ sq. ft.
- d. _____ staff supervisor _____ sq. ft.
- e. _____ resource staff of other agencies assigned to the department _____ sq. ft.

- f. _____ probation officer _____ sq. ft.
- g. _____ asst. probation officer _____ sq. ft.
- h. _____ deputy probation officer _____ sq. ft.
- i. _____ presentence staff _____ sq. ft.
- j. _____ investigative staff _____ sq. ft.
- k. _____ bookkeeper _____ sq. ft.
- l. _____ secretary/steno _____ sq. ft.
- m. _____ clerk _____ sq. ft.
- n. receptionist _____ sq. ft.
- o. switchboard operator _____ sq. ft.
- p. technician _____ sq. ft.
- q. _____ volunteers _____ sq. ft.
- r. computer operator _____ sq. ft.
- s. waiting room _____ sq. ft.
- t. files _____ sq. ft.
- u. supply storage _____ sq. ft.
- v. dictation room _____ sq. ft.
- w. staff conference room _____ sq. ft.
- x. group work area _____ sq. ft.
- y. coffee/snack/drink/lounge area _____ sq. ft.
- z. identification room/area _____ sq. ft.

Other: (describe function and number of staff in each and approximate floor space) _____

9. Are any offices shared with or designated for any county/city or private function other than adult probation? _____yes* _____no

*What? (Do not include juvenile if answer to No. 3 was yes.)

10. Is there more than one staff member occupying a single office space? _____yes _____no

11. If you answered yes to No. 10, please give number of staff, function, and title of each and total floor space occupied by them. (Please use terms indicated in question No. 8.)

12. Are offices partitioned by:

a. complete, floor to ceiling walls? _____yes* _____no

*How many offices? _____

b. temporary (portable) walls? _____yes* _____no

*How many offices? _____; estimate space at _____top _____bottom

c. partial fixed position walls? _____yes* _____no

*How many offices? _____; estimate space at _____top _____bottom

13. Are there any open bay areas used for other than clerical staff?

_____yes* _____no

*Please use terms indicated in question No. 8 and describe spaces and usage. _____

14. Are the offices in need of:

a. paint? yes* no

b. repair? yes* no

*Please briefly describe problem. _____

15. Are the floors:

a. carpeted? (all) yes no

(some) yes* no

*Which offices? (Describe by using terms in no. 8.)

b. tiled? (all) yes no

(some) yes* no

*Which offices? (Describe by using terms in no. 8.)

c. linoleum? (all) yes no

(some) yes* no

*Which offices? (Describe by using terms in no. 8.)

d. concrete? (all) yes no

(some) yes* no

*Which offices? (Describe by using terms in no. 8.)

e. wood? (all) yes no

(some) yes* no

*Which offices? (Describe by using terms in no. 8.)

16. Are floors in good state of repair? _____yes _____no*

*Please describe problem. _____

17. Do offices have:

a. heat? _____yes _____no

1) central _____

2) space _____

3) gas _____

4) electric _____

b. air conditioning? _____yes _____no

1) central _____

2) fans _____

3) window units _____

4) refrigerated _____

5) evaporative _____

18. Are restrooms:

a. within department office area? _____yes _____no*

*How far to restrooms from office area? _____

19. Is there a water fountain or drinking water within the department office area? _____yes _____no*

*How far to nearest water fountain? _____

20. Are the acoustics in the department offices a problem?

_____yes* _____no

*Please describe. _____

21. Are any desks and work space shared by staff, interns, volunteers, etc.? _____yes* _____no

*Please describe those who must share and how time for sharing is organized. _____

22. Does each of the staff, responsible for typing, have an individually assigned typewriter? _____yes _____no*

*How is time for sharing typewriters organized? _____

23. Does the office have all electric typewriters? _____yes _____no*

*How many manual? _____

24. Does the office have:

a. calculators? _____yes* _____no

*How many? _____ electric _____ manual _____

b. adding machines? _____yes* _____no

*How many? _____ electric _____ manual _____

25. Does the office have:

a. dictating equipment? _____yes* _____no

*How many? _____

b. transcribers? _____yes* _____no

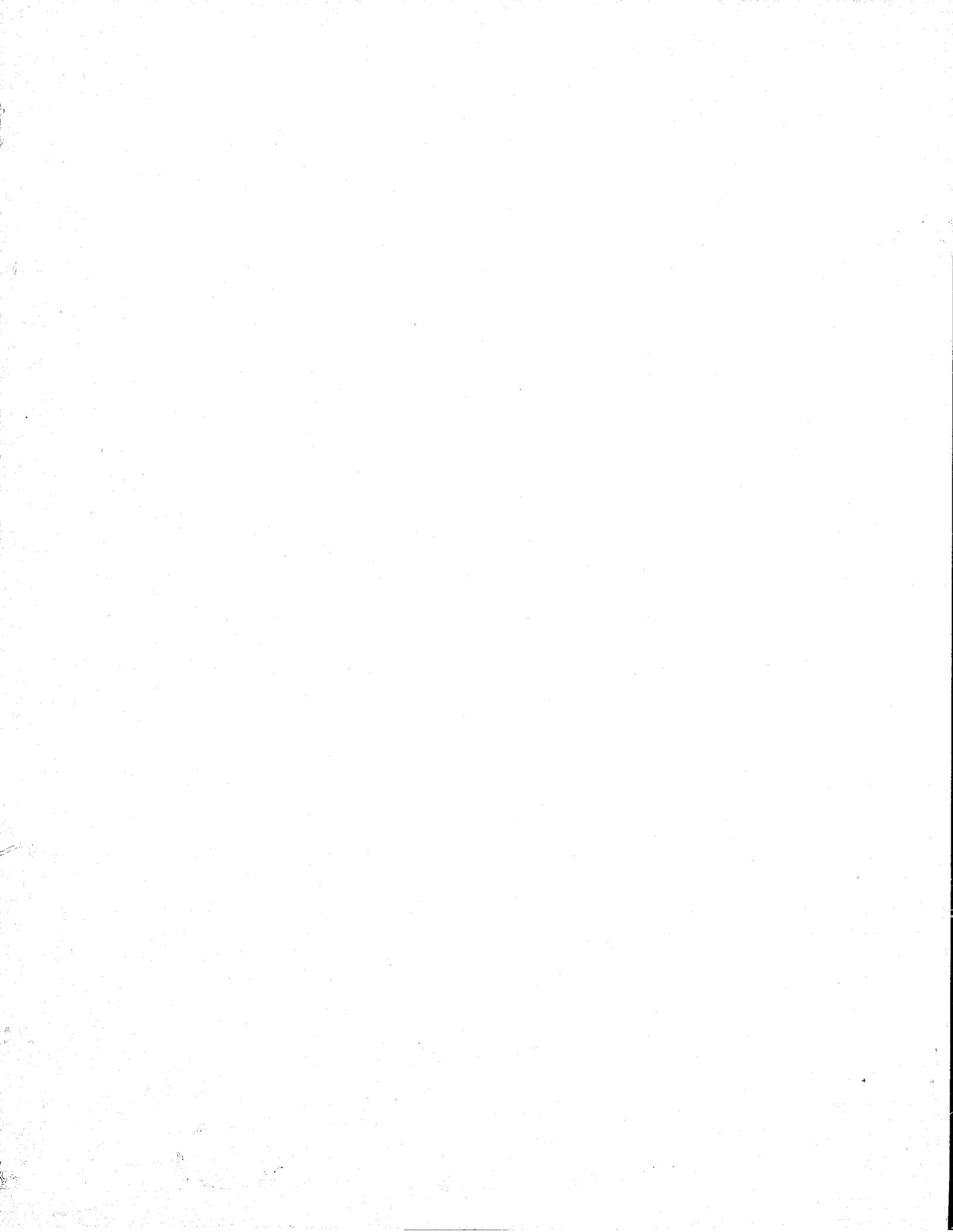
*How many? _____

26. How many phone numbers or extension numbers are available at the office? _____outgoing _____incoming

27. Does every desk have a telephone within reach? _____yes _____no*

*Please describe distance desk is from phone. _____

32. Comment on special equipment your department has beyond that mentioned herein which you have found to be of assistance in management.



END