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Chapter V  
Critical Assessment of  
Revocation/Recidivism Statistics

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Introduction

Why another assessment? There is an overabundance of literature on the subject, all ending with the same conclusion: that revocation and recidivism statistics are full of deficiencies. But, out of that pile and furious debate, confusion and frustration, little help has emerged. This statement is not as pessimistic, cynical or destructive as some may think, when we realize that the language used in the Uniform Criminal Statistics Act of 1949--nearly 28 years ago--to state the priority need for uniformity and comparability of published criminal data is yet to become obsolete.<sup>1</sup> The same need remains with us.

And why critical? For too long, we have looked at society and sought solutions for its problems from the "functionalist" perspective. Because we have grown so accustomed and comfortable with that perspective, we have a tendency to rationalize when things do not fit into the traditional pattern, and discard new perspectives without ever finding out why we cannot accept them.

Society from the "functionalist" perspective is seen to exist because of its inherent quality to maintain its equilibrium by the status quo. Its theory is that there is a

common set of norms and values shared by the majority of its members, and those who do not share them are ostracized as criminals or outsiders so that they may not become such a serious menace as to upset the survival of society. Thus, we have sought to "explain the 'cause' of crime by looking at 'who' the criminal is and 'why' he fails to inculcate the prescribed rules."<sup>2</sup>

The literature search done for this study attests to this observation. Factors associated with the offender or the offender classified as recidivist are extensively analyzed, while factors associated with actions taken by probation officers or with the characteristics of the officers themselves are rarely explored.

The political turmoil in the United States during the 1960's awakened us to look at society, its institutions, the role and function of law from the "conflict" perspective and to question the status quo. Criminality (and repeated criminality) from this perspective is seen as "generating from the system, from the conflict of interests in the society and from the differential ability to label and stigmatize the deviant."<sup>3</sup> Thus, the emphasis has shifted to finding the cause of crime in the system and its abuses instead of just looking at the offender and his norm-breaking behavior.

The problem with this perspective is the tendency it has toward an extremist political orientation that is too destructive to be of use. The "conflict" theorists view

our society, in its present democratic and capitalistic form, as "criminogenic" and assert that the only way we can solve our crime problems is to destroy the system and substitute socialism.<sup>4</sup> Their political naïveté was observed in Paul C. Friday's remark that they are trying to "apply nineteenth century Marxist terminology and conceptualization to twentieth century industrial society."<sup>5</sup> He recognizes, however, that this perspective has generated "new hypotheses on society, particularly on injustices and incongruencies which should lead to alternative empirical studies."<sup>6</sup> It seems that such "empirical studies" have already started (e.g., research on sentencing disparity).

Thus, a constructive approach would be to leave out the political rhetoric of the "conflict" theorists but use their method of looking at social problems, and re-analyze the data we have thus far collected on a vast number of offenders. By combining the best of both "functionalist" and "conflict" theories, we will have a new perspective--the tool for the "critical assessment." This hybrid perspective will force us to shift our focus more to offenders and victims, their needs and their perceptions of crime and the criminal justice system rather than on system events, its needs and its perceptions of crime and criminals.

#### Problems and Needs

#### Outcome Statistics

In 1953, D. W. F. Coughlan, addressing the American Cor-

rectional Association, lamented that there were less than fifty probation officers serving the adult criminal courts of Canada when at least 700 officers would be needed to give minimum coverage. He concluded:

Accurate facts and figures . . . are of infinite value in 'selling' probation. If we can prove statistically that probation does in fact reclaim a better percentage of offenders than any other medium, then, to that extent, it is the most sure way of effecting the basic purpose of the law, protection of the public, by reducing recidivism. In this way, probation enhances the administration of justice and strengthens enforcement of the law.<sup>7</sup>

In the United States, probation has come to be a "very convenient sentencing alternative" and "probation departments have grown rapidly to accommodate the thousands of men, women, and juveniles assigned to them."<sup>8</sup> It has "statistically" proven its effectiveness by claiming that the majority of the recidivism rates reported by the researchers "vary from 12 percent to 45 percent, with a guessed mean of between 20 to 25 percent."<sup>9</sup> Therefore, the failure rate of less than 20 percent generally has been considered relatively low. The validity of such a claim has rarely been questioned.

Today, 136 years after Augustus started his private crusade to help the "drunkards" in Boston, probation is a big enterprise. As a "sub-system" of criminal justice, it operates with salaried officers and professional staff who do program planning and development, and research (in house

or with outside contracts) with various degrees of sophistication. Along with the operational change in probation, change has occurred in the attitude of the public and their legislative representatives. Once they were satisfied with the administrator's speculative explanation on probation effectiveness and impressed with scientific sounding numbers. Now, different questions are asked: "Why is it (or is it not) effective?" instead of "is it effective?" They are finally questioning the validity of so-called "expertise."

The problem we face today is not the "selling," but rather the question of the overuse, underuse, or indiscriminate use of probation. We may be overusing probation if it encompasses more dangerous habitual offenders than the misdemeanants or first-time felony offenders for whom probation originally was designed. Probation may not be ready for such assignments if there is not enough knowledge of behavior nor sufficient money appropriated to do an effective job. Overuse may occur also if offenders who may not need probation at all or who may do better with fines or restitution payments are assigned probation supervision. On the other hand, we may underuse it if we send to prison those who commit serious offenses (i.e., murder between people who know each other), but who, according to research, have the lowest probability of recidivism (although we must consider the theories of general deterrence and retribution). The point of this argument is that we need a better method of

obtaining evaluative knowledge of discriminate and effective use of probation than headcounts of who failed and who succeeded on probation.

Basically, revocation and recidivism statistics which we have been using to determine the "efficacy" of probation are merely headcounts; but worse yet, all of the heads that need to be counted are frequently not included. These figures are like knowing only the final score of a ball game. Unless we were at the game or read a narrative description, we know who won and who lost, but we really do not know how close the game was, how well the teams played, who the outstanding player was, or other minor but interesting details. Revocation and recidivism statistics may be rough indicators of probation effectiveness and efficiency, but certainly they are not determinants. There are many variables that affect probation and postprobation outcomes, such as the rate of unemployment in the community<sup>10</sup> and the quality of an organizational structure (i.e., urban vs. rural probation departments).<sup>11</sup> Still other variables remain to be identified.

Then why do we need revocation and recidivism statistics? General opinion is that certain statistics in the criminal justice system, no matter how unreliable they may be, are essential,<sup>12</sup> or the better argument may be that there is no other alternative and that the "state of the art" of evaluation is still underdeveloped. Certain aspects of the criminal justice system are not amenable to quantitative analysis.<sup>13</sup>

How do we measure quality of the interaction between a probationer and his supervising officer? We can measure them in terms of frequency and length of contact, but what does this tell us? We are beginning to realize the "influence of omnipresent human factors"<sup>14</sup> in the system and that the operators of the system are not free from personal biases. Critics contend that we have let numbers become "ends rather than means" in our naive belief in the power of scientific quantification. What we have to do, they claim, is to "expand our analytical perspective to include the assessment of results through qualitative as well as quantitative analysis."<sup>15</sup>

Thus, outcome statistics are not evaluative data that can, by themselves, answer "why?"; they can only answer questions such as "how much?" or "how many?" But we must realize that "why?" will follow after "how much?" or "how many?" are answered. The answer to "why?" will be only as good as the answers to the preceding questions. It is essential, therefore, to ensure that the descriptive data provided by the outcome statistics are reliable and valid so that useful, testable hypotheses can be generated. Furthermore, outcome statistics derived by the use of standardized measurement criteria will have utilitarian value in that they can be compared. Presently, we may be measuring the phenomenon called recidivism with too many irregular yardsticks. If our measures are standardized (as in the case of centimeter and inch), we can convert one to the other according to the rules.

But, in our measurement of recidivism, we seem to have no such rules. Currently we have very few luxuries of comparability, generalizability, or the accumulation of knowledge necessary to identify variables, other than the characteristics of probationers, which may be related to outcome.

Resources for an expensive safari expedition in search of a brand new measurement instrument are decreasing while the resourcefulness of persons intent on committing crime is steadily increasing. The basic need, then, is to consider the cost-effectiveness of the research or such an expedition itself. Clear statements of priority needs, alternatives and options available to solve those needs are essential, but "our primary need is for intensely human capacities - to perceive broadly, describe precisely, act purposefully, and judge courageously."<sup>16</sup>

We have two options. One, we can go on arguing and exploring what may be the best way to measure recidivism or so-called repeated criminality, as we have done for so long with the "cause" of crime, while we do some superficial rearrangement of criteria for goals and objectives. Or, we can institute a standardized definition for revocation and recidivism, comply with it and see if the expected gain (i.e., comparability and accumulation of knowledge useful for effective management and decision-making) results. This does not mean that we must agree conceptually, or that other definitions may not be studied or adopted if proven more effective. It

does mean that the development of a standard definition will facilitate research to increase our body of knowledge.

There is something un-American about standardizing research methodology and activities, and demanding compliance from researchers. To be American is to come up with new ideas, new theories, new solutions (even though they may be absurd). It seems somewhat un-American to recycle knowledge, replicate someone's work or focus on utility. Options are far too few, however. In correctional administration, options usually are available relative only to cost factors. Benefits resulting from the standardization of probation outcome measures may be greater than a safari hunt or the continuance of interesting but frustrating intellectual discourse. A research strategy and coordinated effort are needed so that (1) eventually an appropriate evaluation model for the administration of probation may be developed and implemented, and (2) we may gradually be weaned from our fixation on the "all-or-nothing" type of one-dimensional outcome measures.

#### Revocation

Problems with probation revocation are caused by the lack of well-defined criteria for revoking probation, which leads to a significant disparity among jurisdictions and among judges and probation officers within the same jurisdiction.<sup>17</sup> This lack of common definition and clearly articulated administrative procedures for revocation results in an inability to

generalize the revocation statistics of one caseload or department to others.

A 1964 national survey to ascertain federal and state practices of probation revocation resulted in the following findings:<sup>18</sup> Four states had "statutes expressly authorizing revocation without a hearing;" seven states and the District of Columbia had "statutes which do not indicate whether a hearing is or is not required;" the federal system and eleven states had "statutes which imply that a hearing is to be held;" twelve states had "statutes which expressly require a hearing;" nine states had "statutes which expressly provide that a hearing may be 'Summary' or 'Informal';" and eight states had "statutes which expressly guarantee or dispense with certain traditional elements of a fair hearing." The conclusion was that, although many states specified a hearing for revocation, they did not elaborate on the nature of the hearing. There was no evidence of ground rules for the hearing so that the potential abuse of discretionary power might be minimized, if not eliminated altogether. The law in the jurisdictions did not proceed "beyond the bare direction that a hearing be held."<sup>19</sup>

The basic problem seems to stem from the traditional orientation of the court and judicial philosophy on probation. The three following theories have been characteristic of court decisions on revocation.<sup>20</sup>

- (1) The grace theory regards probation as a privilege

not a right, as expressed in Escoe v. Zerbst (1935) by Justice Benjamin Cardozo, who rejected on this ground the notion that the Constitution requires a revocation hearing.

(2) The contract theory asserts that probation is a contract between the state and the defendant, who is bound by its terms and has no right to complain about them.

(3) The custody theory regards a probationer as an inmate serving all or part of his sentence in the community; therefore, he is not entitled to all of the rights accorded a free citizen.

The traditional concepts of probation seem to be fading, on the surface at least. The new trend started in 1967, when the court ruled in Mempa v. Rhay that a defendant has a right to counsel at a probation revocation hearing at which a deferred sentence may be imposed.<sup>21</sup> In a more recent case, Morrissey v. Brewer (1972), the court outlined in detail the procedural aspects constitutionally required for parole revocation.<sup>22</sup> This decision was not readily accepted in probation revocation because of the court philosophy; but in Gagnon v. Scarpelli (1973), the Supreme Court asserted that the above decision should also be applied to probation proceedings.<sup>23</sup>

What is still lacking, however, is a set of ground rules for enforcement. We need realistic, practicable, and comprehensive rules that the probation officer can follow in deciding whether a formal revocation procedure should be initiated. A wide void seems to exist between court decisions and prac-

tice in probation departments. Common understanding is that the decisions are interpreted differently by each jurisdiction and department and that much of the granting and revocation proceedings are determined by men, not by law.<sup>24</sup>

The traditional philosophy of the court on probation seems to have a strong hold still in the daily administration of law. On the alleged violation of probation for a new offense or the technical violation, a probationer is often presumed guilty, or is forced to bargain for revocation in the hope of lenient sentencing from the judge.<sup>25</sup> Holding trial to establish a probationer's innocence or guilt is expensive and time consuming; consequently, revocation is frequently used as an alternative to prosecution even for serious offenses committed by probationers.<sup>26</sup> There is very little evidence of any system of administrative or judicial review of revocation decisions made by individual probation officers.<sup>27</sup> In many cases, revocation seems to depend on which combination of probation officer and trial judge has responsibility for supervising the case.<sup>28</sup> What may be concluded is that probation is terminated largely by "judicial fiat," not by law.<sup>29</sup> Revocation rates then reflect also the degree of judicial "caprice" and "whim," not merely the rate of violation by probationers.

Yet, all of the above evidence and discussions are criticisms based on idealistic standards. Justice requires discretion, as we often engage in unpredictable behavior. If

no consideration for mitigating circumstances were necessary, then computers could replace judges. Computers could mete out more consistent decisions than the judges, but would they be just? It is commonly agreed that a certain amount of discretion is necessary for the administration of justice and that the limiting of discretion in one area will find another area for its dwelling.<sup>30</sup> There is too much evidence, however, that unstructured official discretion renders inferior justice.<sup>31</sup>

How much of that certain amount of discretion is needed for us to administer humane and effective justice? How to achieve the proper balance between administrative flexibility and control through rules of law and formal procedures of decision-making is one of the major issues in the criminal justice system. The need for uniformity in revocation proceedings is clear; only the "how to" is still in the realm of faith healing. Until workable and realistic criteria for revocation can be formulated at policy making and administrative levels, revocation rates will not reflect the extent of criminal re-involvement by probationers. It would seem that such criteria will not be formulated until we learn more "about the decision-making of judges and probation officers in the revocation process."<sup>32</sup>

#### Recidivism

Literature abounds, all attesting to the deficiencies of recidivism as a measure of probation effectiveness. Milton

G. Rector, after reviewing the 146 annual and biennial reports received by the National Probation and Parole Association between June 1, 1957 and May 31, 1958, remarked:

. . . any thought of compiling recidivism data from annual reports for comparative purposes had to be abandoned early because of wide differences in definitions, in methods of computing, and in factors of measurement.<sup>33</sup>

All of us probably agree with his assessment, but no one seems to be clear or to agree on which definition to select. There may be some current consensus among researchers that recidivism statistics do not measure probation effectiveness and that the industrial model of cost-benefit/simulation analysis should be used for that purpose; but, again, there appears to be no agreement on what items to include under "cost" and under "benefit."<sup>34</sup> All keep on measuring using their own definitions and give professional rationalizations for the choice.

The basic source of confusion and disagreement seems to stem from the difficulty we have in conceptualizing recidivism. Who is called a recidivist? There are multiple definitions, simplistic to complex, reflecting various value systems and theoretical orientations. None seems satisfactory for all purposes; hence, we often do not know exactly what we are measuring or what we should be measuring.

If a person is being sentenced for the first time but has previously committed crimes for which he was not apprehended, is he a first offender or a recidivist? . . . Is a person recidivist if his later crime follows the

termination of treatment for the earlier crime after some prolonged period?<sup>35</sup>

These are just a few of the many questions that plague us. If a probationer commits another crime that is much lesser in seriousness than the previous offense for which he was convicted and given probation, is he called a rehabilitated recidivist or a minor recidivist? That the dictionary definition is not enough for empirical studies is clear, as is the tendency of corrections to "employ fuzzy terminology."<sup>36</sup>

How do we determine the degree of seriousness of crime? Should a second crime be regarded more serious than the first although both have the same effect and legal definition? In 1966, Marvin E. Wolfgang, at the annual meeting of the American Sociological Association, proposed a new method for collecting international criminal statistics.<sup>37</sup> His idea was to apply the measurement theory used in psycho-physical scaling to obtain seriousness scores for criminal offenses in various countries. Some of the problems and needs of comparative criminology identified by Wolfgang are applicable in the United States today. They are: (1) what is defined as criminal in one nation may not be defined as criminal in another nation; and (2) penalties for the same acts vary widely. Certainly the cultural differences in one country are not as great as those existing among nations; yet, the concept of utility theory and scaling techniques developed by Sellin and Wolfgang in 1964 has generated very few follow-up studies.

In spite of our confusion and disagreement on the defini-

tion of recidivism, "there is convergence in corrections on the criterion of recidivism, which is relatively easy to measure, has a *prima facie* validity, and is statistically quite stable."<sup>38</sup> In the past, some researchers attempted to evaluate probation outcome in terms of "adjustment." They regarded probation outcome as "adjustment" to a number of basic areas of social life. In this scheme, a probationer was considered adjusted if "he has established satisfactory relationships in his domestic and economic affairs and is free from serious physical and mental handicaps."<sup>39</sup> This method, however, has proven even less satisfactory than the method of measuring success and failure by system events (i.e., revocation for probation outcome and rearrest or re-conviction for postprobation outcome). The meaning of "adjustment" and "maladjustment" was not clear, and critics contended that it did not "lend itself to the kind of quantification and objectivity associated with quality statistical data."<sup>40</sup>

Also, there is public objection to the criterion of "adjustment" for the same reason that it is not clear or comprehensive. The public is not likely to be convinced that probation is worthwhile unless it brings about a reduction in persistent criminality. Nor is it likely to accept arguments that the probationer's successful adjustment depends largely on variables other than whatever the probation department does; or that probation effectiveness should not be measured with recidivism which reflects only the failure rate,

but rather should be measured by the degree of the probationer's socio-personal adjustment. The manifest desire of the public is often stated in humanitarian terms, but the reality or the latent desire is more likely to be that a citizen wants the offender "rehabilitated" or "re-integrated" (whatever the most popular term may be), so that he can have his personal world of security and happiness.

The National Advisory Commission's Task Force Report on Corrections distinguishes between system review and program review and recommends recidivism as the primary evaluative criterion for system review. Their definition of recidivism is:

Recidivism is measured by (1) criminal acts that resulted in conviction by a court, when committed by individuals who are under correctional supervision or who have been released from correctional supervision within the previous three years, and by (2) technical violation of probation or parole in which a sentencing or paroling authority took action that resulted in an adverse change in the offender's legal status.<sup>41</sup>

Undoubtedly, this definition will be unsatisfactory to many. For example, the Comptroller General in his 1976 Report to the Congress, disagreed with this definition and "used a slightly more conservative definition of recidivism . . . because a conviction may include less serious crimes, such as traffic offenses."<sup>42</sup> In this report, a probationer was defined as a recidivist if he or she either (1) had probation revoked, or (2) was convicted of an offense while still on probation or within a follow-up period (at least a year);

and, further, only those convictions for which the person was sentenced for 60 days or more were counted.<sup>43</sup>

Perhaps the time has come for practitioners and researchers to communicate with one another and develop a uniform definition of what constitutes recidivism. Without such a collective effort there will not be a "firm base upon which recidivism rates can be determined and compared with any degree of confidence."<sup>44</sup> We have for too long wasted our effort because of our inability to focus on the priority need and have collected a heap of "material" that contributed very little illuminating the problem of recidivism and the way the system deals with it.<sup>45</sup>

#### Research Questions

One overall question is: What is the state of research (1950 to present) on probation and postprobation outcome?

Corollary questions are:

1. What is the extent of inconsistency among the researchers on the definition of failure? The term "failure" is used here instead of "recidivism" because of the wide disagreement among researchers on the use of the latter. For example, to some researchers, "recidivism" only applies to criminal re-involvement after the termination of probation. It seems that "recidivism" is generally used in relation to rehabilitation, and, therefore, a probationer who commits another crime while on probation is not counted in recidivism statistics on the understanding that he has not completed

his rehabilitative program.

2. Are there baseline data against which to assess probation effectiveness?

3. What are some of the methodological limitations faced by the researcher?

4. How much knowledge has been accumulated by outcome studies?

### Analysis

Ten studies will be divided into six categories reflecting their design and methods of analysis. (See Figure 1 and the listing below it for definitions of the terminology used.)

The data from the ten studies are summarized in four tables attached at the end of this section (pp. 219-222). Often, some important or relevant data are lost in the process of reduction to fit them in a summary table. It is suggested, therefore, that the tables be read with caution and in conjunction with the narrative provided for each study.

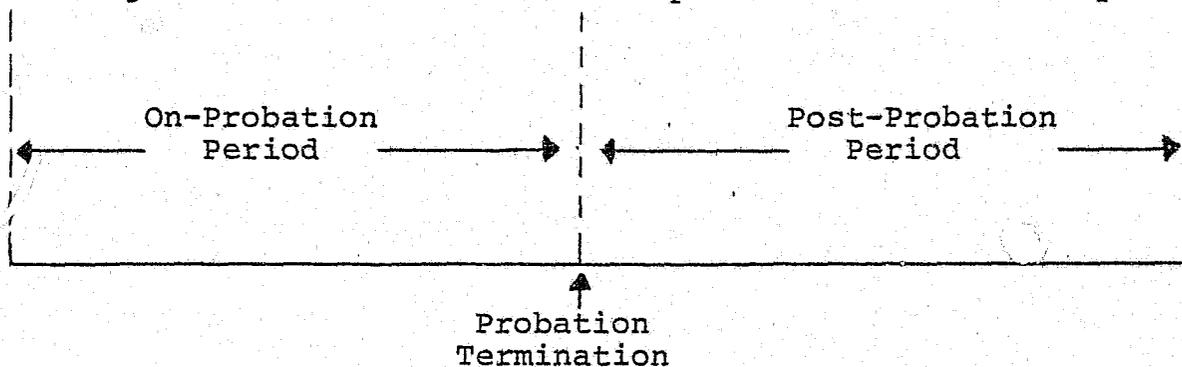


Figure 1  
Probation Study Scheme

(A) On-Probation Study: Measures performance of probationers

while they are on probation.

$$\text{Failure Rate} = \frac{\text{Total no. of failures while on probation}}{\text{Total no. of offenders on probation}}$$

- (B) Probation-Termination Study: Measures outcome upon termination of probation.

$$\text{Failure Rate} = \frac{\text{Total no. of failures upon termination}}{\text{Total no. terminated (success + failure)}}$$

- (C) Post-Probation Study: Measures postprobation outcome.

$$\text{Failure Rate} = \frac{\text{Total no. of failures among probationers terminated as "successful"}}{\text{Total no. "successfully" completing probation}}$$

- (D) Probation-termination/Postprobation Study: A combination of (B) and (C). Although this type of study offers a two-part analysis of probation, the majority of the researchers seem to consider the post-probation failure rate to be the measure of the efficacy of probation. Therefore, the definition and the failure rate of post-probation are entered in the summary table (see Table I). One of the three studies reviewed under this category (the Comptroller General's Report to the Congress) used a different definition and combined on-probation failures, unsuccessful terminations, and post-probation failures in the overall estimated rate of 55 percent. Exactly what base was used in arriving at this "estimate" was not clearly stated in the study.

The above indicates that a different definition and method of analysis affect the failure rate, while the actual amount of repeated criminality may not significantly differ from one study to another.

- (E) Cohort/Probation-Termination Study: Traces a group of probationers granted probation in the same year up until their release.

$$\text{Failure Rate} = \frac{\text{Total no. of cohort failures upon termination}}{\text{Total no. of cohort granted and terminated}}$$

- (F) Cohort/Probation-Termination/Post-Probation Study

Traces a group of probationers granted or terminated in the same year beyond their release date.

$$\text{Failure Rate} = \frac{\text{Total no. of cohort/post-termination failures}}{\text{Total no. of cohort "successfully" completing probation}}$$

- (A) On-Probation Study

Dean E. Frease. "Factors Related to Probation Outcome," Board of Prison Terms and Paroles, State of Washington, April 1964.

1. Study Population: 605 probationers placed on probation during July 1, 1961 - June 30, 1962.
2. Population Characteristics: Predominantly male; educational level of 5-12; no prior felony commitments or probations; resident of the state more than five years; instant offense committed alone or with one other individual; moderate drinking; and likely success predicted.
3. Length of Probation: 18 to 30 months.
4. Definition of Failure: Those probationers who have been served an inactive letter or a bench warrant and those whose probationary status has been revoked.
5. Failure Rate: 20 percent.

6. Major Findings:

(a) Analysis of admissions data showed the following characteristics to be associated with probation success: female; on probation 4-5 years; instant offense committed while accompanied by two or more companions; no prior felony commitments or probations; 5 years or more of residence in Washington; a 4th grade education or less; non-drinking; and predicted success by the supervising officer.

(b) Analysis of discharge data showed the following success variables: positive family support; married; relatively high earnings; no official warning given at the time of release; "cooperative" attitude toward authority; "mature and empathic" interpersonal relationships; and identification with "reputable" persons and goals.

(c) Speculative analysis is provided by the authors on the negative association between success and education. They speculated from Durkheim's "anomie" theory that the offender with a greater amount of education would be faced with the problem of rising expectations, while those with no or very little formal education accepted their way of life and did not set unrealistic goals for themselves.

B. Probation-Termination Study

Judson R. Landis; James D. Mercer; and Carole E. Wolff, "Success and Failure of Adult Probationers in California,"

Journal of Research in Crime and Delinquency 6 (January 1969): 34-40.

1. Study Population: 791 felons granted probation in Sacramento County between 1956 and 1963. Those who had no complete information, died, or were still under active probation supervision were eliminated from the population.
2. Study Population Characteristics: Predominantly white, low twenties in age, California or Western state native, with less than high school education.
3. Length of Probation: Not identified.
4. Definition of Failure: Revocation resulting from the violation of the probation conditions established by the court or conviction for a new offense.
5. Failure Rate: 52 percent.
6. Major Findings:
  - (a) Analysis of social background variables indicated that the failures were more likely to come from disadvantaged circumstances (lower educational and socioeconomic levels) and were more unstable (marital instability and frequent change of jobs) than successful probationers.
  - (b) Analysis of antisocial behavior variables indicated that probationers with a past history of disciplinary problems in the military, a juvenile record, or an adult record were much more likely to fail on probation than those without a record. As the sharpest differences between the successes and the failures appeared in this

category, the authors concluded that a past history of deviant behavior would be the best predictor of future deviant behavior. The type of offenses committed were property crimes (auto theft, check offenses, and forgery), which, according to many other studies, are highly associated with recidivism, suggesting that the failures were "career" offenders.

(c) Analysis of conditions of probation variables indicated that the imposition of conditions such as jail and restitution increased the likelihood of failure. Based on this finding, the authors suggested, "greater success may result if the courts, when imposing conditions can insure a degree of individualization and flexibility to allow the probation officer greater latitude in his treatment efforts."

Paul H. Kusuda, "1974 Probation and Parole Terminations," Division of Corrections, State of Wisconsin, July 1976.

1. Study Population: 6,195 male and 952 female probationers terminated from the Division of Corrections, Probation and Parole.
2. Study Population Characteristics: Predominantly white; single; self-supporting or partially self-supporting; employed full time; income of \$400.00 a month or more; no disruptive use of alcohol or drugs; having fairly "realistic" goals (as judged subjectively by the supervising officers).
3. Length of Probation: Less than 6 months to 5 years or

more (average 1-2 years).

4. Definition of Failure: Revocation (new offense, rules violations and absconding).
5. Failure Rate: 18.3 percent (19.4 male; 11.4 percent female).
6. Major Findings:

(a) The following characteristics were associated with the non-recidivist: a "productive" and "useful" relationship with the supervising officer; personal goals assessed by the supervising officer as "highly realistic"; on probation for 12 to 18 months; stable marriage; self-supporting; full-time employment; per month income of more than \$400.00; non-use of drugs and alcohol; and probation terminated at age 55 or older.

(b) Of the 19 percent failure rate (male), nearly 57 percent was due to absconding, while conviction for another offense accounted for only 20 percent. In terms of the "seriousness," 62 percent of these failures were for minor offenses (i.e., absconding, concealed weapon, disorderly conduct); 26 percent for property offenses; while only 6 percent was for offenses against persons (i.e., assault and battery).

C. Post-Probation Study

Ralph W. England. "A Study of Postprobation Recidivism Among Five Hundred Federal Offenders." September, 1955.

1. Sample: A regular-interval sample of 500 federal offenders drawn from the universe of all offenders whose

probation terminated between January 1, 1939 and December 31, 1944.

2. Sample Characteristics: Predominantly white, male, considerably older than the criminogenic age of 17 to 25 years ( $\bar{X} = 37$ ), married and living with spouse, laborers (almost complete absence of professional workers), and educational level slightly below that of the general public.
3. Follow-up Period: 6 to 12 years.
4. Definition of Failure: Misdemeanor and felony convictions.
5. Failure Rate: 17.7 percent.
6. Major Findings:
  - (a) Characteristics significantly associated with recidivism were: previous criminal record; youthfulness; personal instability; and lower, urban socio-economic background.
  - (b) Almost 38 percent were already recidivists at the time of instant offense, but over half of this group was convicted only once (very few hardened offenders).
  - (c) Almost 28 percent of initial post-probation convictions occurred in the first post-probation year and more than a half by the third year.
  - (d) Most of the post-probation convictions (73%) resulted from minor offenses involving bootlegging, gambling, theft, and disorderly conduct.

D. Probation-Termination/Post-Probation Study

Morris Gilmore Caldwell, "Review of a New Type of Probation Termination Data Made in Alabama," Federal Probation 15 (June 1951): 3-11.

Probation Data

1. Study Population: 1,862 federal probationers whose probation terminated during the period July 1, 1937 through December 31, 1942.
2. Study Population Characteristics: Predominantly male, white, young, product of a broken home, low occupational status, short employment tenure, irregular employment, and low income.
3. Length of Probation: One to 60 months (median - approximately four years).
4. Definition of Failure: Revocation of probation due to violation of the conditions and termination due to absconding.
5. Failure Rate: 19.1 percent (18.1 percent for revocation; 1.0 percent for absconding).
6. Major Findings:
  - (a) Analysis of 337 probation violators showed them to be younger and have lower economic status than the non-violators, unmarried, widowed, divorced, or separated, combined with a record of recidivism, while their educational achievement was very similar to the non-violators and the general public.
  - (b) Sixty-two percent of the probation violations were

for convictions, 36 percent for rule violations, and 2 percent unknown.

(c) The instant offenses were all federal violations (72 percent against internal revenue laws), while 52 percent of offenses committed while on probation were state offenses (violation of liquor laws).

#### Post-Probation Data

1. Sample Population: 403 post-probationers selected by stratified and random method from the sampling frame of 994 from the original universe of 1,862 federal probationers who met the study criteria (refer to the previous section).
2. Sample Characteristics: Same as the population characteristics.
3. Follow-up Period: 11 years and 7 months (minimum of five and one-half years).
4. Definition of Failure: Post-release conviction.
5. Failure Rate: 16.4 percent.
6. Major Findings:
  - (a) Factors related to non-recidivism appeared to be high occupational skill, full employment, adequate income, home ownership, marriage, and children.
  - (b) Of the 66 post-probation failures, 58 committed misdemeanors, while only 8 committed felonies.

"Probation in Missouri July 1, 1968 to June 30, 1970: Characteristics, Performance, and Criminal Reinvolvedment."

Missouri Division of Probation and Parole, May 1976.

Probation Termination Data

1. Study Population: 5,083 probationers placed from July 1, 1968 to June 30, 1970.
2. Study Population Characteristics: Poor, young, high school drop-out, showing no evidence of drug or alcohol abuse, white (though not predominantly), placed on probation for a first felony property offense.
3. Length of Probation: Average of 18 months.
4. Definition of Failure: Revocation (conviction for a new offense and technical violations, excluding absconding).
5. Failure Rate: 20.9 percent.
6. Major Findings:
  - (a) The data indicated that a probationer usually completes his probation term successfully if he is over 40, has a high school education or above, is married, employed, has adequate income, no prior felony incarceration, and has never used or been addicted to drugs or alcohol.
  - (b) Those convicted of armed robbery and forcible rape among the crimes against person categories and those convicted of motor vehicle theft and forgery in the crimes against property categories appeared to be high-risk individuals.

Post-Probation Data

1. Sample: A random sample of 216 cases selected from

those among population of 5,083 who had successfully completed probation without revocation (80 percent).

2. Sample Characteristics: Same as the population characteristics.
3. Follow-up Period: Six months to seven years ( $\bar{X}$  = four years).
4. Definition of Failure: Arrests and convictions.
5. Failure Rate: 30 percent.
6. Major Findings:

(a) The 30 percent breaks down as follows: 22 percent re-arrested, 4 percent misdemeanor convictions, and 4 percent new felony convictions. The re-arrest record revealed that most of the failures had only one arrest, and the ex-probationers' new crimes were very similar to the ones for which they were originally convicted and placed on probation (burglary, larceny, and vehicle theft).

"How Effective is Probation?" In State and County Probation: Systems in Crisis, pp. 10-17. Report to the Congress by the Comptroller General of the United States (Washington, D.C.: U. S. Government Printing Office, 1976).

1. Sample: A random sample of 1,200 former probationers (300 each from four counties in four states).
2. Sample Characteristics: Not given.
3. Follow-up Period: Average of 22 months.
4. Definition of Failure: "Revocation, or conviction of an offense while still on probation or within a follow-up period" (includes only those convictions for which the

person was sentenced for 60 days or more).

5. Failure Rate: Probation failures: 22 percent. Post-probation failures: 26 percent. Estimated overall failures: 55 percent. Apparently, the word "estimated" was added because of the "lack of adequate data from the four counties." This "estimated" 55 percent is indicated to include absconding (about 16 percent); however, their definition of failure is not clear, nor is the method of estimating this figure.

6. Major Findings:

- (a) A comparison of the percent of arrests and convictions of closed cases (1,200) with open cases (200) showed that while the offenders currently on probation had not been exposed as long to the criminal justice system, their rates of arrest and conviction approached the rates shown for past offenders.

- (b) Crimes for which probationers were arrested or convicted were mainly possession of a gun, escape, petty theft, larceny, and alcohol law violations.

- E. Cohort/Probation-Termination Study

George F. Davis, "A Study of Adult Probation Violation Rates by Means of the Cohort Approach," Journal of Criminal Law, Criminology, and Police Science 55 (March 1964): 70-85.

1. Sample: A cohort made up of all defendants granted probation in 56 California counties during the years 1956 (3,199), 1957 (3,970), and 1958 (4,469).
2. Sample Characteristics: Mostly from counties with the

largest population; convicted for burglary, forgery, and checks; predominantly white males between 20 and 24 years old; for most, probation was recommended by probation officers; received probation or a combination sentence of probation and jail.

3. Length of Probation: Minimum of four years and maximum of seven years.
4. Definition of Failure: Two or more violations and revocation (with none and one violation classified as success).
5. Failure Rate: 30.2 percent (overall); 26.6 percent (1956), 28.6 percent (1957), and 29.1 percent (1958).
6. Major Findings:
  - (a) The highest rate of revocation occurred for probationers convicted of forgery and check offenses, while the lowest rate occurred among persons sentenced for homicide and sex offenses.
  - (b) As in most studies, a high success rate was recorded for women and older people.
  - (c) There was a significant difference between the recidivism rate of the group recommended for probation and the group not recommended, or those for whom a sentence recommendation was not made at all.
  - (d) More than half were revoked within 17 months of the judgment date.
  - (e) Forty-eight percent committed new offenses, while

52 percent were charged with technical violations.

F. Cohort/Probation-Termination/Post-Probation Study

James F. Irish. "Probation and Its Effects on Recidivism: An Evaluative Research Study of Probation in Nassau County, New York, Nassau County Probation Department, 1972.

1. Sample: A stratified random cohort sample of 927 probationers selected from a total population of 1,825 probationers discharged as "improved," "unimproved," or "committed" in 1962, 1965, and 1968.
2. Sample Characteristics: Predominantly white male, average 22 years old, single, either a laborer or a student, below 11th grade level education, on probation for larceny and burglary, with no or minor previous criminal record, and completed probation successfully.
3. Follow-up Period: Minimum of up to four years following release from probation.
4. Definition of Failure: "A real or alleged tendency to relapse into a previous delinquent mode of behavior determined legally and arbitrarily by a set of fixed criteria: pre-probation recidivism - prior arrest or convictions; on-probation recidivism - rearrests or convictions; post-probation recidivism - rearrests or convictions; post-probation recidivism - rearrests or convictions (in the actual study, only arrests were used)."
5. Failure Rate: 41.5 percent (overall); based on four-year follow-up period for each cohort group - 23.6 per-

cent (1962), 26.3 percent (1965), and 40.1 percent (1968).

6. Major Findings:

(a) A significantly greater percentage of those who received no "definite" or "meaningful" recommendations from the Probation Department became on-probation and post-probation recidivists than those recommended for probation.

(b) A significant relationship was found between pre-probation, on-probation, and post-probation adjustment.

(c) Variables significantly associated with recidivism are: prior criminal record; under 18 years of age when first arrested; unemployment; history of prior psychological treatment; marital status other than married; low socio-economic level; education below 12th grade; negative offender-parent relationship; broken or unstable home environment; little parental religious interest, as measured by church attendance.

(d) Recidivists commit crimes similar to the ones for which they were convicted and placed on probation.

James F. Irish, "Probation and Recidivism," Mineola, New York: Nassau County Probation Department, [1977]. (Mimeographed.)

1. Sample: A cohort of a twenty percent stratified random sample (250) selected from a population of 1,250 discharged from probation in 1973 as "improved," "unimproved," or "committed."
2. Sample Characteristics: Predominantly white, male, with

no previous arrests, convicted for crimes against property, and discharged as "improved" (75 percent).

3. Follow-up Period: Three to four years.
4. Definition of Failure: Discharged as unimproved or committed for probation failure; arrest for post-probation failure.
5. Failure Rate: 29.6 percent.
6. Major Findings:
  - (a) Probation adjustment was related to previous criminal record, race (black or white), and type of crime leading to sentence of probation (crimes against person, property, drugs, and other). Thus, a probationer who is white, has no previous record of arrests, and is sentenced to probation for a property crime seems to have a strong likelihood of success on probation.
  - (b) Post-probation adjustment was related to previous criminal record, type of supervision (regular or drug) for whites only, and type of discharge (improved, unimproved, or committed), for whites only. Thus, a probationer who is white, has no previous record of arrest, has been supervised by the regular unit, and released as "improved" seems to have the highest post-probation success of any type of probationer.
  - (c) The study did not establish the existence of a significant relationship between the following variables:

Probation outcome and sex  
 " " " type of supervision

Post-probation outcome and sex  
 " " " " race  
 " " " " type of discharge for blacks  
 " " " " type of supervision for blacks  
 " " " " type of crime for which sent  
 to probation

### Findings

Question 1: What is the state of inconsistency among the researchers on the definition of "failure"?

The summary statistics (Table I describes the range of definitional variation. All, however, use system events: revocation, arrests, and convictions). The follow-up period varies from 20 months to 12 years. The group of ten studies reviewed consisted of one on-probation, three probation-termination and six post-probation studies. The closest in terms of definition, follow-up period, sample size, sample characteristics, and failure rate are the study of federal probationers done by Caldwell in 1951 and another by England in 1955.

Question 2: Are there baseline data against which to assess probation effectiveness?

Most of the studies reviewed here stated that their purpose was to assess probation effectiveness; however, none of the authors explained what was meant by "effectiveness" or how they defined a base against which they compared their findings in order to claim that probation is an effective alternative in treating the offenders. Where absolute measurement is impossible in correctional research, comparisons will

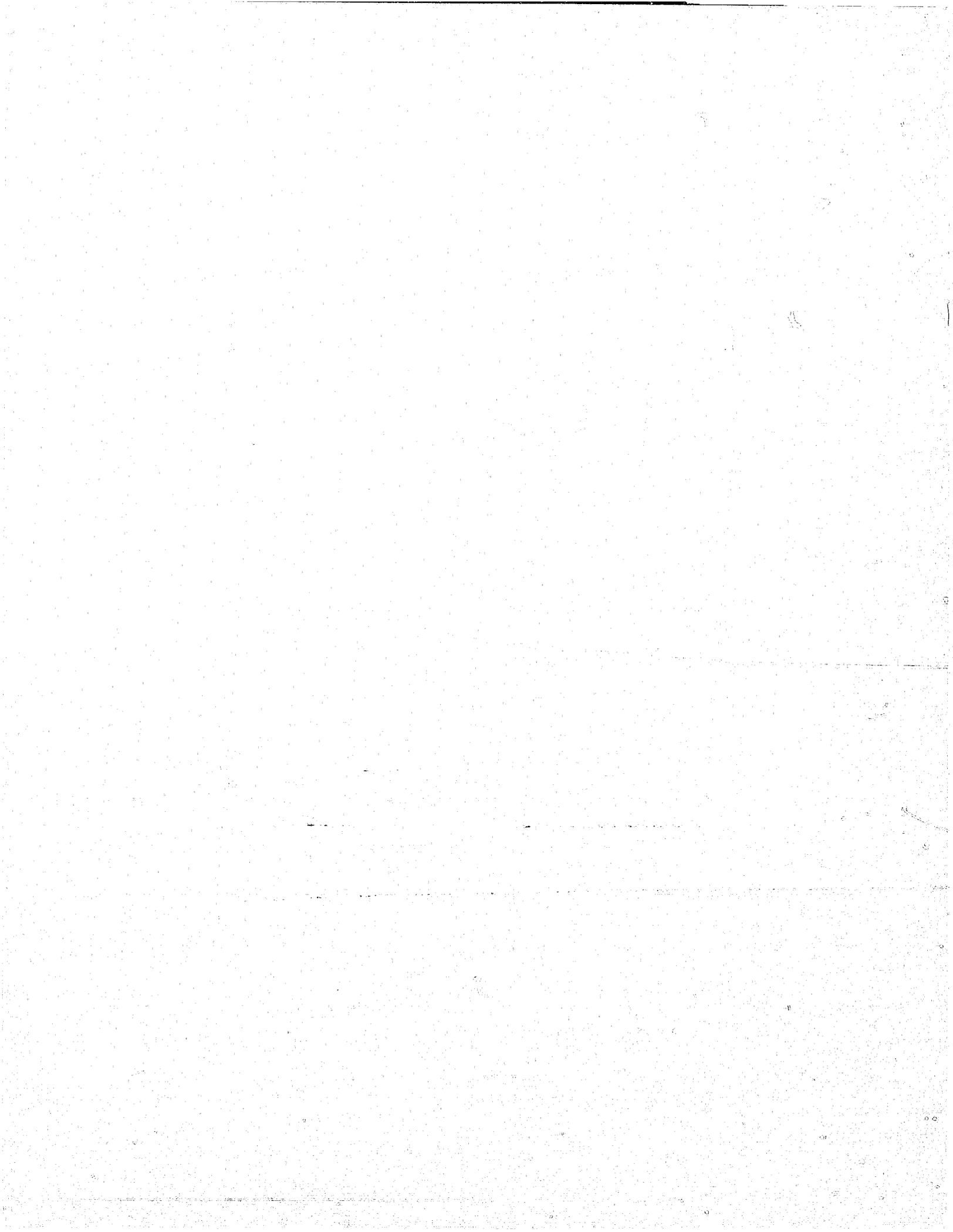


TABLE I  
THE SUMMARY STATISTICS

Studies	Failure	Sample	Sampling Method	Follow-up	Failure Rate(%)
Caldwell 1951	Convictions	403 federal, terminate 7/1/37-12/31/42	Stratified-random	Post-probation: 5½- 11½ yrs.	16.4
England 1955	Convictions	490 federal, terminate 1/1/39-12/31/44	Regular-interval	Post-probation: 6-12 yrs.	17.7
Davis 1955	2 or more violations & revo- cation (technical & new offense)	Cohort, placed on prob 1956(3199), 1957(3970), & 1958(4469)	Total population	Up to termination: 4-7 yrs. on probation	30.2
Frease 1964	Inactive letter, bench warrant, & revocation	605, placed on prob. 7/1/61-6/30/62	Total population	On-probation: 18-30 months	20.0
Landis 1969	Revocation (technical violations or new offense)	791 felons, placed on prob. 1956-1963	Only those with complete info.	Up to termination	52.5
Irish 1972	Arrests or convictions	Cohort, terminated in 1962(199), 1965(288), & 1968(440)	Stratified-random	Post-probation: a minimum of 4 yrs.	41.5
Missouri Div. Prob. & Parole 1976	Arrests & convictions	216, placed on prob. 7/1/68-6/30/70	Random	Post-probation: 6 mos. -7 yrs.	30.0
Kusuda 1976	Revocation (technical violat- ions, new offense, & absconding)	7047, terminated in 1974	Total population	Up to termination: average 1-2 yrs. on probation	18.3
The Comptroller General 1976	Revocation while on prob. & postrelease convictions(sen- tenced to 60 days or more)	1200, terminated in 4 counties in 4 states	Random	Post-probation: average 20 months	55.0*
Irish 1977	Arrests	250, terminated in 1973	Stratified-random	Post-probation: average 3-4 yrs.	29.6

\*This is an "estimated" figure given by the author. See the narrative section for the detailed explanation.

TABLE II

## MAJOR POPULATION/SAMPLE CHARACTERISTICS

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Studies	Prior Criminal Record	Use of Alcohol or Drug	School Grade Completed	Socio-Economic Level	Marital Status	Race	Age	Sex
Caldwell 1951	None or minor		5-8	Unskilled/ semi-skilled	Married (54%)	White (75%)	Median: 29	Male (93%)
England 1955	"		Median-8.3	Laborers	Married (64%)	White (75%)	Mean: 37	Male (88%)
Davis 1955						White (78%)	Average: 20-24	Male (90%)
Frease 1964	"	None to moderate	5-12	Under \$400	Married (43%)			Male (90%)
Landis 1969	"		Below 11			White (82%)	Median: 25	Male (100%)
Irish 1972	"	"	"	Laborer/ student	Married (71%)	White (80%)	Average: 22	Male (93%)
Missouri Division of Prob. & Parole 1976	"	"	"	Under \$400	Single (52%)	White (58%)	Average: 18-22	
Kusuda 1976	"	"		Under \$400	Single, div. & separated (72%)	White (79%)	Mode: 20-24	Male (87%)
The Comptroller General 1976								
Irish 1977	"	"	Below 12			White (77%)	Average: 24	Male (89%)

Blank spaces - no data provided in the study.

TABLE III

## MAJOR FACTORS CORRELATED WITH FAILURE

Studies	Previous Criminal History	Youthfulness	Status Other Than Married	Unemployment	Low Income Below \$400	Education Below 11th	Abusive use of alcohol or drug	Property Offender	On-Prob. Maladjustment	Imposition of Conditions
Caldwell 1951	Significant correlation	Significant correlation	Significant correlation	Significant correlation	Significant correlation	Significant correlation		*		
England 1955	"	"	"	"	"	"		*		
Davis 1955	"	"						Significant correlation		Significant correlation
Frease 1964	"		"		**	"	Significant correlation		Significant correlation	
Landis 1969	"	"	"	"	"	"	"	"		"
Irish 1972	"	"	"	"	"	"	"	*	"	
Mo. Div. Prob/Par. 1976	"	"	"	"	***	"	"	"		
Kusuda 1976		"	"	"	**		"	*		
The Compt. General 1976								*		
Irish 1977	"							*	"	

Blank spaces - no data provided

\*In these studies, instant and post-probation offenses committed by probationers were predominantly "property"; however, a correlation between property offense and recidivism was not investigated.

\*\*Correlation only with income between \$100 and \$400; those who made less than \$100 and those who made above \$400 both had an equal probability of success.

\*\*\*Correlation only with income between \$100 and \$700; those who made less than \$100 and those who made above \$700 both had an equal probability of success.

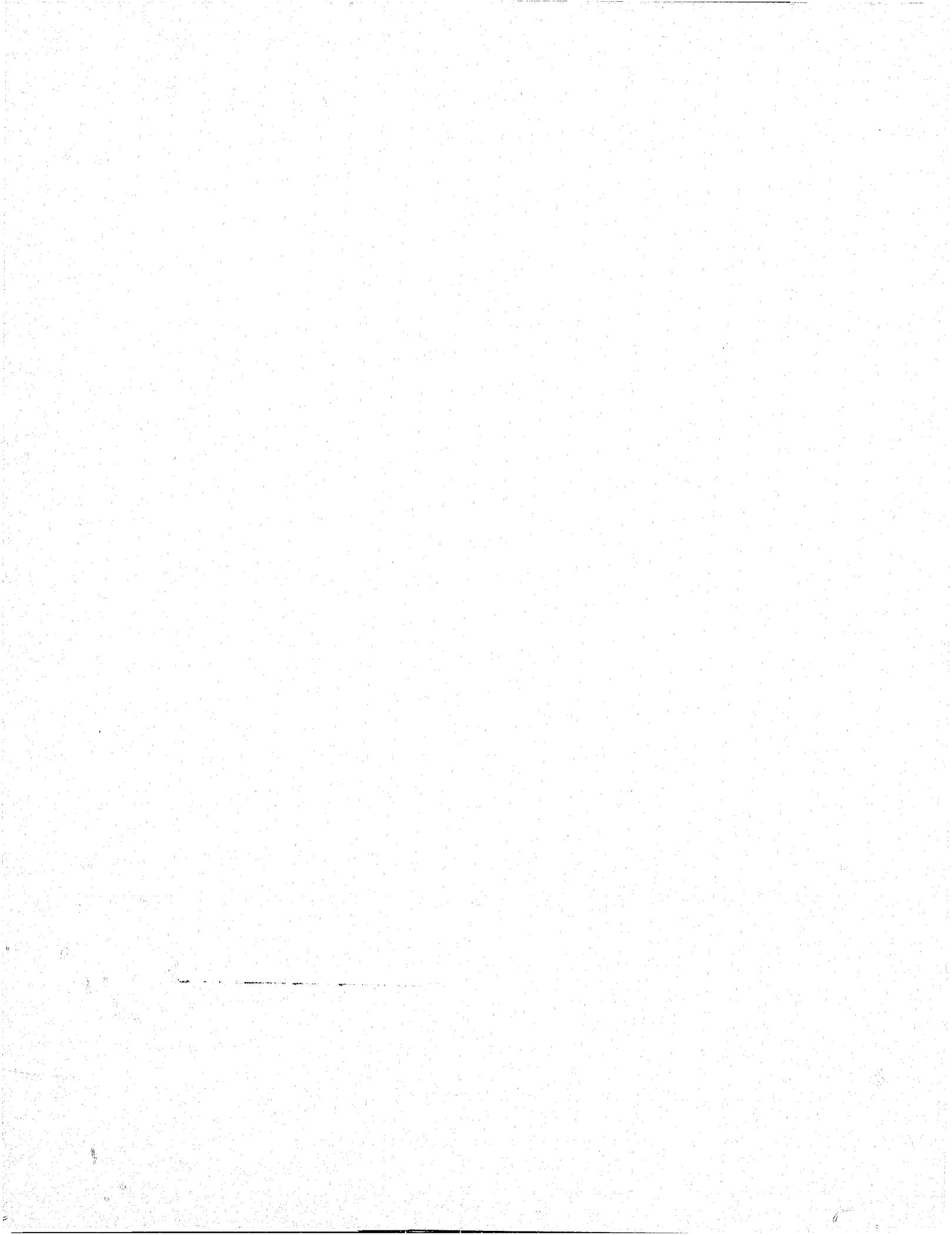
TABLE IV

## MAJOR OFFENSE PATTERN

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Studies	Instant Offense	On-Probation/Post-Probation Offense
Caldwell 1951	Internal revenue laws (72%)	State liquor laws (52%); misdemeanor (12%) & felony (88%)
England 1955	Bootlegging (48%); forgery & counterfeiting (9%)	Liquor & gambling (33%); larceny & disorderly conduct (20%) Felony (26.9%); misdemeanor (88%)
Davis 1955	Burglary; forgery & checks Misdemeanor (51.2%); misdemeanor (48.8%)	New offense (48%); technical violations (52%) Misdemeanor (88%); felon (12%)-convictions
Frease 1964		
Landis 1969	Auto theft; forgery & checks	Same as instant offense
Irish 1972	Larceny & burglary	Same as instant offense
Missouri Div. of Prob. & Parole 1976	Burglary, larceny & vehicle theft	Same as instant offense Arrest (22%); misdemeanor convictions (4%); felony convictions (4%)
Kusuda 1976	Property	Absconding, weapon, disorderly conduct (62%); property (26%); crimes against person (6%)
The Comptroller General 1976		Minor offense: alcohol, technical violations, etc. (60%); property (26%); crimes against person (14%)
Irish 1977	Property	Arrests: property (47%); drug related (30%); other minor crimes (14%); crimes against person (7%)

Blank spaces - data not provided in the study



permit the relative evaluation of one thing against another.<sup>46</sup> Valid comparisons, however, cannot be made unless the same instrument of measurement is used, because a recidivism percentage by itself is not sufficiently informative. It is only suggestive for the evaluation of probation in providing a justification for the conclusive, experimental or operational research.

The need for a valid base before a researcher could assess the significance of his findings was clearly evidenced in the Comptroller General's 1976 report to the Congress. The statement below is illustrative, (emphasis added):

. . . the estimated overall 55 percent failure rate for persons no longer on probation raises serious questions as to the probation system's ability to help offenders make a positive adjustment in the community. Furthermore, since about 45 percent of the former probationers and 37 percent of current probationers had been convicted of crimes during probation, a lack of control and danger to the public are evident. We question whether society is adequately safeguarded when criminal repeaters continue to return to the community in a probationary status without adequate supervision and control.<sup>47</sup>

The basis for the above claim is not clear. Further, since the definition of recidivism in this study is different from what other researchers used, comparisons cannot be made. A study of halfway houses was cited, which stated that about 15 percent of the offenders who went through halfway houses were imprisoned for improper behavior while residing at the houses, and that in contrast, 22 percent of the 1,200 offenders no longer on probation were incarcerated for improper

behavior while on probation.<sup>48</sup> How valid and reliable such comparison is to support a claim of probation ineffectiveness cannot be determined from this study.

There is a problem, however, in the statement that society is not "adequately" protected. In the beginning of the report, recidivism is measured by (1) revocation, or (2) conviction of an offense while still on probation or within a follow-up period (includes only those convictions for which the offender is sentenced to 60 days or more). Later, however, another definition of failure is given; it includes "new convictions," "flight," and "probation revocation," and considers absconders as failures, even when no new offense occurs because they are considered to "reject the restrictions placed on them by the criminal justice system."<sup>49</sup> The problem is not with the reasoning, but with the fact that the rate will change depending on which definition of failure is used.

Another inconsistency found in the claim of probation ineffectiveness appears in a table giving a breakdown of types of crimes for which the 680 probationers were arrested.<sup>50</sup> According to the table, the largest number of arrests were under the category of "All Others" (possession of a gun, escape, and petty theft), totalling 491. The next three largest were theft and larceny (160), alcohol law violations (155), and drug charges (103). For the rest of the crimes, there were between three and 69 arrests. How serious are

these crimes to the community? The authors "question whether society is adequately safeguarded . . ." Should they worry about some others who might be more dangerous than the 1,200 ex-probationers they studied?

In 1955, England observed in his research on post-probation outcome that:

. . . few of the convictions were for crimes commonly regarded as being serious threats to society. Out of 500 federal probation cases, there were no cases of murder, rape, or arson; besides the ten burglary convictions, there were three for aggravated assault and four for robbery. . . The charge sometimes made by its opponents that probation looses dangerous predators on society receives little support from these data.<sup>51</sup>

This suggests that some ways must be found to determine the degree of reinvolvement, as well as the need for a careful analysis of data before a conclusive claim can be made.

Question 3: What are some of the methodological limitations faced by the researcher?

England commented in his study of 500 federal offenders that the relatively small samples used in most recidivism studies made impracticable the use of partial correlation or other multivariate analyses, and often associations between variables proved to be spurious.<sup>52</sup> Davis cited three other deficiencies most commonly found in recidivism studies:

(1) a proper base for calculating the rate of violation is not used, (2) accurate follow-up data on defendants released on probation are implied, but rarely evidenced, and (3) court procedures and policies influence results to a degree that is generally not realized.<sup>53</sup>

A few other researchers also mentioned that the criterion of success or failure on probation was complicated by the fact that there was little control over the statistical data submitted by the local probation departments and, as a result, they could not obtain some data that were essential to their research.

One major problem relates to correlation and causation. Does the association of two variables mean that one has caused the other? In all of the studies, the variables cross-tabulated with outcome were treated as though they were independent; none of the studies examined the degrees of relationship and nature of interactions between the variables that were found to be related to outcome.

Most of the studies, for example, reported that property offenders had the highest recidivism rate and that almost all of the black offenders had committed property offenses and had a higher recidivism rate than their non-black counterparts. These findings were the result of cross-tabulation and the chi-square test of significance. None of the studies controlled for variables that were known to be distorters, such as income, education, employment opportunities, and other social factors. The careless interpretation of such correlations can result in one group of people being singled out and stigmatized. The recidivism rate for the white offenders, in the event all of the known distorters are controlled, might turn out to be exactly the same as that of

blacks.

Another correlational problem is the selection process. For instance, one probation outcome study reported a recidivism rate of 52 percent, while two other studies using a similar definition of failure reported percentage rates of 30 and 31. In the former study, however, the study sample consisted of felons while samples of the two studies were felons and misdemeanants. Most of the studies dealt with samples of white probationers who had no or a minor prior criminal record and who had no drug or alcohol problem; all of these characteristics are highly correlated with successful outcome. The Missouri report examined the characteristics of commitments to the Missouri Department of Corrections and those of the probation population, and found that the Court committed offenders who were single or divorced, and who were slightly older and had a longer history of criminal offenses than those sentenced to probation.<sup>54</sup> Based on these observations, it is hard to draw a reasonably accurate picture of how much of the success rate is attributable to the judge's selection process. Also, there are variables that are beyond the control of probation, such as employment rates or the changing moral values in the larger society. How much effect do these extraneous variables have on probation outcome? It seems clear that much of the confusion over recidivism figures is related to this "blurring of causation."<sup>55</sup>

The above discussion of problems inherent in correctional research leads to the question of whether explanatory evaluation is possible in probation. Professional opinion seems to be that the typical human service agency is an "inappropriate setting for evaluation that seeks to provide valid and reliable data on causation," but that the management information data can lead to change through feedback on process and impact.<sup>56</sup> This type of continuous evaluation of probation performance through a "feedback loop," focuses less on causation or the determination of effectiveness but more directly on how to increase probation effectiveness. This approach seems much more realistic and productive than others (e.g., "intensive" evaluation) in a setting such as a probation department.

Question 4: How much knowledge has been accumulated by outcome studies?

With further replication and verification, the following findings may be utilized in management decisions:

(a) England (1955) reported that most of the probation violations occurred after one to 18 months, while most of the post-probation violations occurred within a three-year period.

(b) The Missouri report (1976) stated, "For some unknown reason the .0-18 age group had a considerably higher rate of successful completion." It is common knowledge that this age group is also the most visible to the police. We need to know if they are amenable to probation supervision

or if they are the "self-correcting" type. We need to know for what behaviors they are being apprehended and put on probation. It could be that their behaviors are so minor that probation is not necessary. Or, perhaps, other types of disposition may be more effective or better for them than probation.

(c) Generally, it was reported that a probationer who had better education and higher income had a relatively high probability of success. Frease (1964) and Kusuda (1976), however, reported that probationers with the lowest education (below 4th grade level) and income (below \$100 per month) had as high a probability of success as probationers in the highest education and income groups. Reasons given were that the former had accepted their way of life and did not set unrealistic goals for themselves. The data of Kusuda's study indicated that there was a relationship between "unrealistic goals" (as judged subjectively by the supervising officer) and probation success. We need to know if more education and job training will help those in the middle group, who have relatively adequate education and income, or whether to explore some other type of treatment or counseling that may be more appropriate, as their problems are different from those of people who have hardly any money or education.

(d) Davis (1964) and Landis (1969) reported that those probationers who had more conditions (fines, restitution, jail terms, rules for future daily conduct, etc.) placed on

them had a higher failure rate. We need to know if those conditions are too harsh, if they should be used at all, or if they can be used differentially depending on the probationer's status and need.

(e) Davis (1964) reported that the small differences among the revocation rates of the white, white-Mexican, and "other" racial groups were not statistically significant; however, there was a significant difference in the revocation rate of the black group as compared with the rates for whites, white-Mexicans, and "other" racial groups. We need to find out why such a difference exists, for what reasons the different groups are being revoked, and what their supervision needs are.

(f) Irish (1972) reported that statistically there was no relationship between the "sophistication of the level of the pre-sentence reports" and on-probation adjustment of the probationers as reflected by the discharge status assigned by the probation department. We need further follow-up to determine why and how the pre-sentence investigation affects the outcome. Should this report contain a different type of information to correlate significantly with probation outcome?

(g) Irish (1972) and Davis (1964) reported that those probationers for whom the determination as to likelihood of success (on the basis of their past performance) was not made at the time of sentencing had the higher probability of fail-

ure. We need to find out why the determination makes any difference on the probationer's successful completion and why a determination is not made on certain probationers. What type of probationers are they? How can a probation officer arrive at a meaningful determination for a probationer? Does the officer need professional assistance (i.e., a psychologist) in assessing the future performance of a probationer?

(g) Frease (1964) reported that, "the success rate steadily increased as length of probation is increased up to the five year level," but the "success rate, at the five year point, begins to decline and show a sharp drop for those offenders on probation over five years." Landis (1969), on the other hand, reported, "the longer the time on probation, the greater the probability of failure" and "more failures than successes spent more than two years on probation." Further research is necessary to find out how such variables as length, type of probation, and type of offender affect outcome.

The overall question: What is the state of research done since 1950 on probation effectiveness?

The review of the ten studies demonstrates very little progress made over the years toward the assessment of probation effectiveness. There seems to be an unwritten agreement or "rule of thumb" that a failure rate of about 30 percent or below means probation is effective and anything above indicates its ineffectiveness. Such a tendency is evidenced

in the following comments:

<u>Year</u>	<u>Author</u>	<u>Failure Rate</u>	<u>Comment</u>
1951	Caldwell	16.4%	". . . probation is an effective method of dealing with federal offenders."
1955	England	17.7%	"A reconviction rate of less than one-fifth or one-quarter. . . [is] an acceptable level of performance for a probation service."
1976	The Missouri Report	30.0%	"Probation is an effective and efficient way of handling the majority of the offenders in the State of Missouri."
1976	Report to the Congress	55.0% (estimated)	". . . Probation systems we reviewed were achieving limited success in protecting society and rehabilitating offenders."
1977	Irish	29.6%	". . . supervision program is effectively accomplishing its objective."

The valid base for all of the above claims is yet to be defined. Does a low rate of recidivism indicate probation program success or the judge's ability to select the "right" offenders for probation or the "self-correcting" type who may not need treatment at all? Does a high rate imply probation failure or that too many high risk offenders are being given probation? Most recent studies, such as the Missouri report and the one by Irish, indicated the increased use of probation, in their jurisdictions, for those considered high risks. Assessment of the impact of the increased use of probation will require a much finer basis for determining probation effectiveness. If probation works only for certain types of

offenders, the public and their legislative representatives should know about it. If probation has no effect on the actual recidivism, but its use can be justified because it is more humane than incarceration, they should also know about that. If probation is extended to more offenders than it can handle or to high risk types for whom it is not ready, undoubtedly failure rates will grow unless appropriations and treatment techniques are revised to meet such a demand. The opinion that "barring such change, a backlash effect is possible, with the public's reacting against probation, which they will assume to be ineffectual, and demanding more incarceration"<sup>57</sup> is a legitimate worry, with which researchers and administrators should be concerned.

On the other hand, there seems to be developing a new consciousness among the contemporary researchers; that is, they are acknowledging the limitations of their outcome studies and interpreting their findings more cautiously than before.

Irish, in his 1972 study, attempted to find the relationship between the probation officer's skill in pre-sentence reporting and probation/post-probation outcome, departing from the traditional study of the relationship only between the socio-personal characteristics of a probationer and outcome. Finding that there was no significant relationship, he made various assumptions and recommendations which could be very useful for management improvement.<sup>58</sup>

Another innovative approach was observed in Irish's study. He found a significant increase in post-probation recidivism rates between 1962 and 1968 and proceeded to document all of the programs the Nassau County Probation Department implemented during this period, resource allocation, and the evidence of professionalism. His effort, as reflected in the following remark, is evidence of a new awareness that is developing in recent studies.

Comparisons with similar departments were futile due to a universal confusion in the reporting of recidivism rates. Further, no research tool has yet been devised which can clearly unravel the effect of a large number of new programs, staff changes, budgets, methods and procedures, the changing social climate, changing court practices and personal motivation factors on the post-probation adjustment of a given number of probationers.<sup>59</sup>

For too long, researchers have been tangled up in the inertia of tradition, unable to face or articulate the significance of the problems. This criticism does not mean to treat the problem of evaluation of effectiveness as a simple subject, but a break with tradition must be made if we are serious about improving the delivery of our human services. We must move ahead with systematic observation of correctional processes, testing of program impact, and measurement of the effects of various treatment modalities such as the matching of a probationer to a supervising officer.

#### Summary and Conclusion

The findings of this study must be interpreted and gen-

eralized from with caution, because the studies reviewed are relatively few in number and were selected on the basis of availability. With this in mind, they may be summarized as follows:

1. There is a wide disparity in the definition of revocation and recidivism.

2. Revocation/recidivism rates without a standardized definition have little comparative value.

3. A criterion (or criteria) of probation "effectiveness" is not well defined.

4. Revocation/recidivism research requires a longitudinal systems design (e.g., Offender-Based Transactional Analysis) for the understanding of probation effectiveness.

5. There is confusion over the distinction between system reviews and program reviews. Programs are developed and implemented by an agency such as a probation department. Agency review covers everything that is being done by that agency. The question "Is probation effective?" is not the same as the question "Is a drug program effective?"

6. There is confusion over outcome and impact (the significance of outcome). For probation review, the outcome may be defined as the success-failure rate of the probationers upon their release, while the impact may be defined as their post-probation success-failure rate. What is important in this scheme is the link between the outcome and the impact. Does a probationer who has successfully completed his proba-

tion term remain successful on his own? That is the measure of his re-integration, and his re-integration into the community is the goal of probation.

Where do we go from here?

We need a "research strategy" with a clear statement of our objective that comparable recidivism statistics must be developed so that we may eventually have "usable bench-marks which probation agencies can use in evaluating their services."<sup>60</sup> Measurement of "success" or "failure" are needed which are more precise than the data which indicate nothing more than violation of a condition of probation. In order to attain this objective, we need to adopt longitudinal evaluative statistics instead of "head count" statistics to which we have been accustomed for such a long time.<sup>61</sup>

Late in 1967, the first Probation Management Institute was held in three regions for top-level probation administrators to exchange ideas and identify problems and needs. The development of a comprehensive system of collection, storage, and retrieval of information within the field of probation emerged as their highest priority. Subsequently, a tentative model, based upon a uniform data-gathering approach already in use by parole systems across the country, was developed for the purpose of exploring the feasibility of a national program.<sup>62</sup>

Because of the lack of funds and personnel, the definition for "failure" was decided by the research staff instead

of being developed through communication and agreement with the practitioners, as ideally should be done. Also, because of the same reason, on-site training in data collection for the persons assigned that task in the participating agencies was not done. Instead, a "Letter of Instructions" was sent out to each agency providing guidance on the sampling technique. Altogether, 2,128 cases (mostly adult felons) from 21 agencies provided necessary data to test the feasibility of the data collection model.

The favorable determination of the "feasibility" was mainly on the basis of the recidivism rate (13.4 percent), which the researchers considered comparable to the rates reported by the majority of the probation departments across the country. The authors concluded that a "definitive answer as to the feasibility of uniform probation reporting has not yet been obtained."<sup>63</sup> Perhaps an extensive cost-benefit analysis (i.e., the testing of alternatives such as a state-level system) may be required for a "definitive answer."

Recently, the Probation Research and Development Unit of the New Jersey court system determined that the present probation information system was not comprehensive enough to meet the needs of the system. On their contention that comprehensive data, collected on a statewide basis, would be helpful to sound administrative and management decision-making, they developed a three-phased reporting format under

the name of Probationer Management Information System (PMIS).

The PMIS pretest was done in one adult county jurisdiction. The preliminary evaluation of this pretest was positive. Sometime this year, this transactional probationer-oriented data system is scheduled for implementation in two counties. The information and evaluation data derived from this system is expected to be "utilized for planning and evaluation on the state, county or local levels, and provide the basis for increasing the effectiveness and efficiency of probation service in New Jersey."<sup>64</sup>

Whether this system, or any other system, will prove effective in answering many of our "why" questions largely depends on the dedication of the people who operate that system. It is myopic to regard the system as having no value of its own. Many challenges lie ahead. The past research has proven that much of the "success" of probation is related to the characteristics which probationers bring with them. Perhaps it is about time to find out what characteristics of the system and the operators of that system contribute to that "success." Without a total system approach, we will remain forever behind the starting line.

## Footnotes

<sup>1</sup>Uniform Criminal Statistics Act was drafted by the National Conference of Commissioners on Uniform State Laws at its annual conference meeting in Philadelphia, Pennsylvania, October 21-26, 1946. This Act was subsequently approved by the American Bar Association at its meeting at Atlantic City, New Jersey, October 28 to November 2, 1946.

<sup>2</sup>Paul C. Friday, "Changing Theory and Research in Criminology," International Journal of Criminology and Penology 5 (1977): 160.

<sup>3</sup>Ibid., p. 161.

<sup>4</sup>Ian Taylor, Paul Walton, and Jock Young, The New Criminology: For A Social Theory of Deviance (New York: Harper and Row, 1973), p. 281.

<sup>5</sup>Friday, p. 164.

<sup>6</sup>Ibid.

<sup>7</sup>D. W. F. Coughlan, "Can We Use Probation More and Prison Less?" in Proceedings of the Eighty-third Annual Congress of Corrections of the American Correctional Association, p. 254.

<sup>8</sup>Donald J. Tippman, "Probation as a Treatment Alternative for the Criminal Offender: An Analysis of Variables Related to Performance on Probation in a Sample of Men Placed on Probation" (Ph.D. dissertation, Wayne State University, 1976), p. 11.

<sup>9</sup>Ralph W. England, "A Study of Postprobation Recidivism Among Five Hundred Federal Offenders," Federal Probation 19 (September 1955): 14.

<sup>10</sup>Kirk J. Kavanaugh, "A Twelve-Month Probation Outcome Study: Examining the Effects of Employment on Probationer Adjustment" (Columbus, Ohio: The Ohio State University, [1975]), pp. 54-60. (Mimeographed.)

<sup>11</sup>Alvin Cohn, Emilio Viano, and John Wildemer, "Decision-Making in the Administration of Probationer Services" (Davis, California: National Council on Crime and Delinquency, [1970]). (Mimeographed.)

<sup>12</sup>Robert L. Lind, "A Program of Research on Performance Measurement and Evaluation for the Criminal Justice System,"

in "Performance Measurement and the Criminal Justice System: Four Conceptual Approaches," ed. Alfred Blumstein, et al. (Washington, D.C.: National Technical Information Service, National Institute of Law Enforcement and Criminal Justice, [1976] ), p. 346. (Mimeographed.)

<sup>13</sup>President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Science and Technology (Washington, D.C.: U.S. Government Printing Office, 1967), p. 3.

<sup>14</sup>Eileen Siedman, "Why Not Qualitative Analysis?" Public Administration Review 4 (July/August 1977): 415.

<sup>15</sup>Ibid., p. 417.

<sup>16</sup>Bernard P. Donnelly, "Cheap Shots and Costly Pay-Offs: A Plea for Purpose in Public Programs," Public Administration Review 2 (March/April 1977): 184.

<sup>17</sup>Eugene C. Dicerbo, "When Should Probation be Revoked?" Federal Probation 30 (June 1966): 432.

<sup>18</sup>Ronald B. Sklar, "Law and Practice in Probation and Parole Revocation Hearings," Journal of Criminal Law, Criminology, and Police Science 55 (June 1964): 175-198.

<sup>19</sup>Ibid., p. 176.

<sup>20</sup>Elsie Scott, "Legal Considerations," Criminal Justice Issues 3 (February-March 1977): 5.

<sup>21</sup>National Advisory Commission on Criminal Justice Standards and Goals, Corrections (Washington, D.C.: U.S. Government Printing Office, 1973), p. 579.

<sup>22</sup>Ibid., p. 160.

<sup>23</sup>Ibid.

<sup>24</sup>Joel Bassett, "Discretionary Power and Procedural Rights in the Granting and Revoking of Probation," Journal of Criminal Law, Criminology and Police Science 60 (1969): 485.

<sup>25</sup>Robert O. Dawson, Sentencing: The Decision as to Type, Length, and Conditions of Sentence (Boston: Little, Brown and Company, 1969), p. 143.

<sup>26</sup>Herbert Jacob, Justice in America (Boston: Little, Brown and Company, 1965), p. 159.

- <sup>27</sup>Dawson, p. 403.
- <sup>28</sup>Ibid., p. 142.
- <sup>29</sup>Sol Rubin, "Probation and Due Process of Law," Crime and Delinquency 11 (January 1965): 36.
- <sup>30</sup>Dawson, p. 17.
- <sup>31</sup>Jacob, p. 159.
- <sup>32</sup>Robert H. Vasoli, "Some Reflections on Measuring Probation Outcome," Federal Probation 31 (September 1967): 31.
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- <sup>34</sup>Douglas Lipton, Robert Martinson, and Judith Wilks, The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies (New York: Praeger Publishers, 1975), p. 607.
- <sup>35</sup>Sol Rubin, "Probation and Recidivism Statistics," National Probation and Parole Association Journal 4 (January 1958): 233.
- <sup>36</sup>Chester H. Bartoo, "How Measurable is Success?" Crime and Delinquency 15 (January 1969): 519.
- <sup>37</sup>Marvin E. Wolfgang, "International Criminal Statistics: A Proposal," Journal of Criminal Law, Criminology, and Police Science 58 (1967): 65.
- <sup>38</sup>Vincent O'Leary, "Reflections on the Systems Age in Corrections," in Proceedings of the National Conference on Criminal Justice, ed. Russell W. Peterson (Washington, D.C.: U.S. Government Printing Office, 1973), p. 236.
- <sup>39</sup>Jay Rumney, and Joseph P. Murphy, Probation and Social Adjustment (New Brunswick, New Jersey: Rutgers University Press, 1952), p. 12.
- <sup>40</sup>Vasoli, p. 27.
- <sup>41</sup>National Advisory Commission, p. 528.
- <sup>42</sup>Comptroller General of the United States, State and County Probation: Systems in Crisis (Washington, D.C.: U.S. Government Printing Office, 1976), p. 11.
- <sup>43</sup>Ibid.

<sup>44</sup>Nathan G. Mandel, et al., "Recidivism Studied and Defined," Journal of Criminal Law, Criminology, and Police Science 51 (1965): 59.

<sup>45</sup>Charles Philip Smith, and Paul Emil Resta, "Integration of Criminal Statistics and Correctional Research with EDP," in Proceedings of the Ninety-third Annual Congress of Corrections of the American Correctional Association, 1963, p. 168.

<sup>46</sup>Daniel Glaser, "Scientific Evidence on the Prison Potential," American Psychologist 12 (November 1957): 676.

<sup>47</sup>Comptroller General, p. 17.

<sup>48</sup>Ibid.

<sup>49</sup>Ibid., p. 12.

<sup>50</sup>Ibid., p. 15.

<sup>51</sup>Ralph W. England, "A Study of Postprobation Recidivism Among Five Hundred Federal Offenders," Federal Probation 19 (September 1955): 15.

<sup>52</sup>Ibid.

<sup>53</sup>George F. Davis, "A Study of Adult Probation Violation Rates by Means of the Cohort Approach," Journal of Criminal Law, Criminology, and Police Science 55 (March 1964): 70.

<sup>54</sup>"Probation in Missouri, July 1, 1968 - June 30, 1970; Characteristics, Performance and Criminal Reinvolvement" (Jefferson City, Missouri: Division of Probation and Parole, [1976]); p. 62. (Mimeographed.)

<sup>55</sup>Gordon P. Waldo, "Myths, Misconceptions, and the Misuse of Statistics in Correctional Research," Crime and Delinquency 17 (January 1971): 65.

<sup>56</sup>David Twain, "Program Planning and Evaluation: Criteria for Choices and Resource Allocation," paper presented at the Region III HEW-Sponsored Conference, Philadelphia, October 20-22, 1976, p. 6.

<sup>57</sup>Frank R. Scarpitti, and Richard M. Stephenson, "A Study of Probation Effectiveness," Journal of Criminal Law, Criminology, and Police Science 59 (1968): 369.

<sup>58</sup>James F. Irish, "Probation and Its Effects on Recidivism: An Evaluative Research Study of Probation in Nassau

County (August 1971-July 1972)" (Mineola, New York: Nassau County Probation Department, [1972] ), p. 172. (Mimeographed.)

<sup>59</sup>Ibid., p. 164.

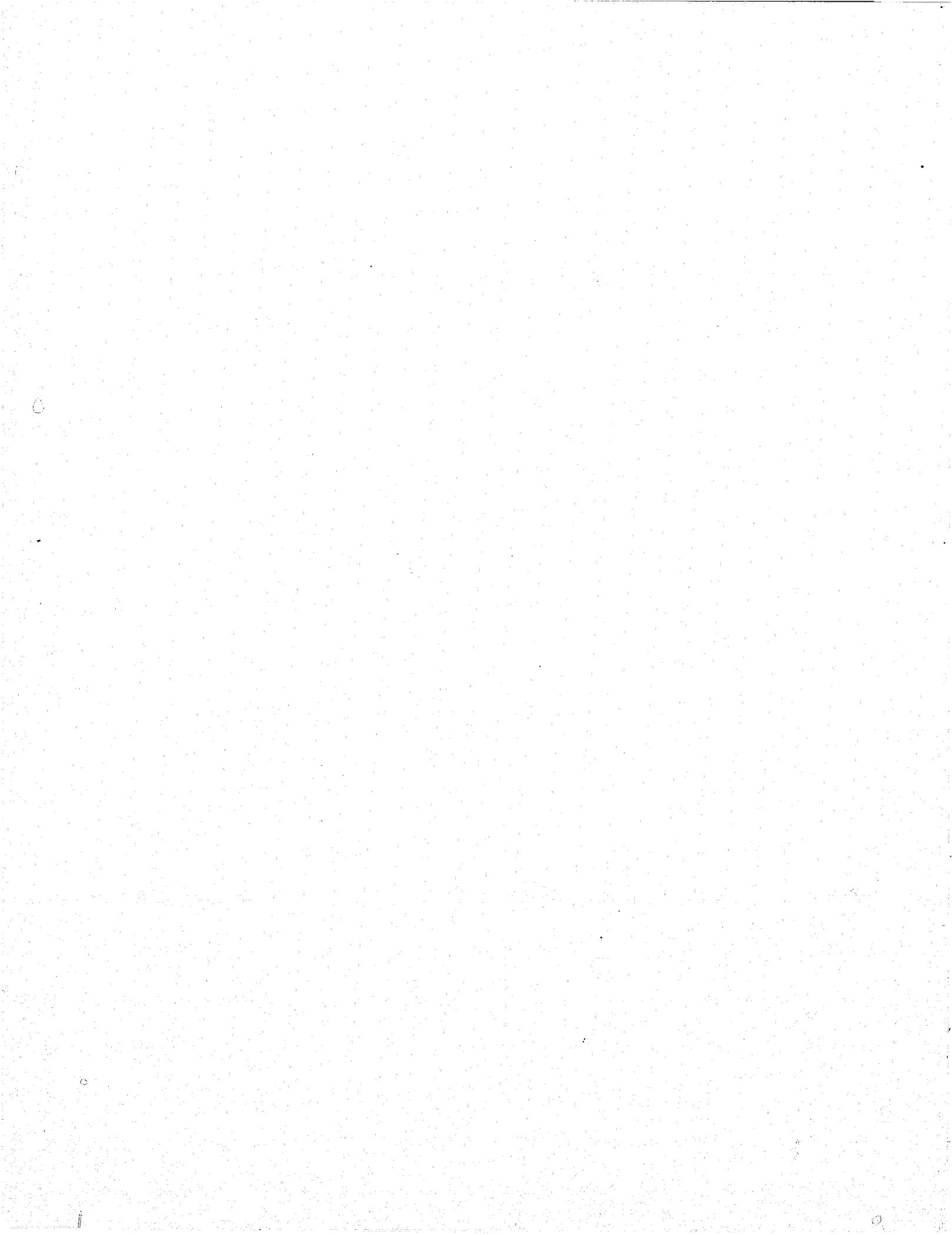
<sup>60</sup>John W. Mannering, "Probation Statistics," in Proceedings of the Eighty-seventh Annual Congress of Corrections of the American Correctional Association, 1957, p. 95.

<sup>61</sup>Daniel Glaser, "Correctional Research: An Elusive Paradise," Journal of Research in Crime and Delinquency 2 (1965): 7.

<sup>62</sup>Peter S. Venezia, and Alvin W. Cohn, "Probation Information: A Tentative Model" (Davis, California: National Council on Crime and Delinquency Research Center, [1968] ), pp. 1-123. (Mimeographed.)

<sup>63</sup>Ibid., p. 53.

<sup>64</sup>"Preliminary Plan for the Development of a Probation Management Information System" (Trenton, New Jersey: Probation Research and Development, [1976] ). (Mimeographed.)



## Treatment

Probation has the dual responsibility of providing rehabilitation for the offender and protection for the community. A key element reported in the studies of treatment modalities reviewed appears to be the development of a positive self-concept. Feelings of inadequacy and indifference to the possibility of success seem to be shared by many offenders. The treatment techniques that have to date been implemented in adult probation generally seek, through various means, to increase the offender's self-image, self-esteem, and self-confidence on the assumption that in doing so, criminal tendencies will decrease.

Although treatment studies of youthful and of incarcerated samples are more frequent, such studies of adult probationers are relatively uncommon. Rigorous tests are rare.

Ms. Storti's paper, which follows, reviewed available studies in five areas.

### Vocational Counseling and Employment

The use of diagnostic services, various instructional programs, counseling, and job referral have been tried, with some promising results.

### Group and Individual Counseling

Counseling techniques have been assumed to be an effective and important part of probation. Rarely, however,

have the specific methods used, either in group or individual counseling, been adequately defined. As a result, at the end of a study, we may not only be unable to say whether the treatment "worked," but we may be unable even to describe the treatment.

#### Voluntary vs. Involuntary Treatment

Some studies of this issue have been reported, but the nature of the evidence is such that questions of effectiveness (as distinct from moral issues) cannot yet be resolved.

#### Drug Treatment

Alternative treatments advocated for drug abuse are as diverse as methadone maintenance and provision of a therapeutic community. Intensive supervision, counseling, education, and referrals all have been described as necessary for treatment of these probationers. A 24-hour on-call support system has also been suggested for drug offenders in community treatment programs.

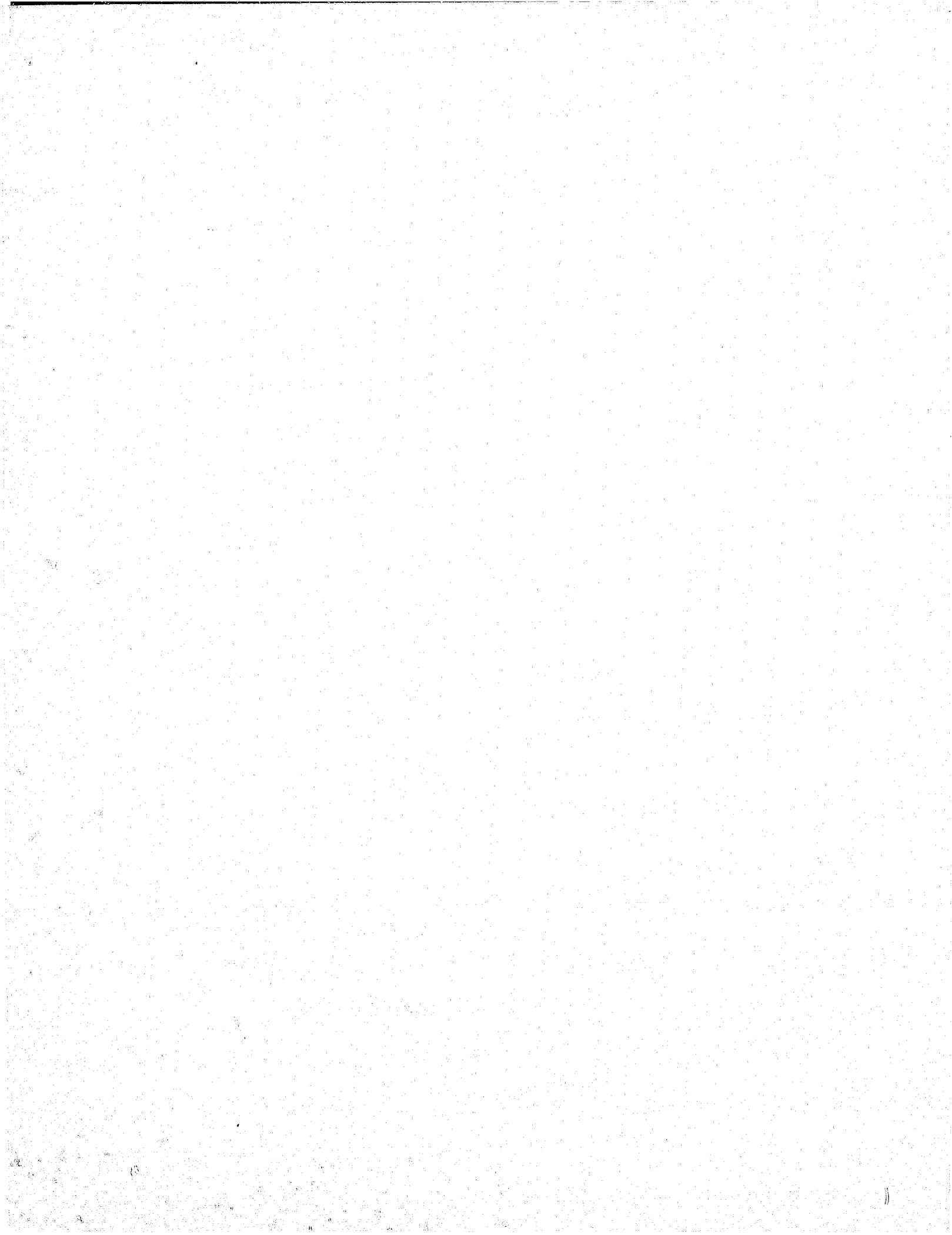
Thus, the studies reviewed utilized methadone maintenance, specialized caseloads of drug offenders, referrals to community resources, and a system of positive feedback as treatment. There is a lack of firm evidence to support any one method. The treatments themselves often are sketchily described; and many studies suffer from circumstances that limit the conclusions that can be drawn with confidence. They do, however, point to a number of drug treatment methods that warrant further investigation.

Use of Volunteers and Paraprofessionals in Adult Probation

The Volunteers in Probation have reported positive effects of using volunteers to supplement the services of the probation department. With the additional manpower of volunteers, perhaps caseloads can be streamlined to allow the officers to devote their available time to the most serious cases. It is argued that costs can be reduced through the use of volunteers, and services may be rendered to a greater number of probationers. Paraprofessionals also can serve to supplement existing probation department resources, lessen the workload of probation officers, and free them to devote more time to the offenders most in need of supervision and services.

The research in this area is, however, quite limited. The conclusions reported from the few existing studies suggest success using volunteers, paraprofessionals, and indigenous persons in probation.

Thus, the research uncovered in the area of treatment modalities in adult probation services was surprisingly limited. Certainly, the investment in careful, rigorous program development and evaluation has been scarce relative to the importance of probation treatment issues and to the investment of time, money, and effort in providing treatments with unknown effects.



**END**