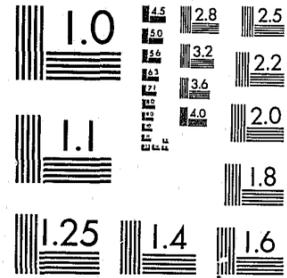


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TEXAS ADULT PROBATION COMMISSION

1980 TAPC SHOCK PROBATION SURVEY

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U.S. Department of Justice  
National Institute of Justice

76817

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Texas Adult Probation Commission  
Division of Information Services

Austin, Texas  
July, 1980

NCJRS  
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ACQUISITIONS

FOREWORD

No matter how beneficial a rehabilitation technique may be to the recipient, the cost to the state must be weighed against the benefit that may be obtained. The 1980 TAPC Shock Probation Survey did not directly inquire into the cost of shock probation as compared to incarceration. The purpose of this Foreword is to provide a comparison of these costs.

The 87 departments responding to the Survey reported their courts have placed 1044 adult felons on shock probation since August 29, 1977 (see page 5). Of these 1044 probationers, 289 were "shock revokees;" that is, they were placed on regular probation, had their probations revoked, were incarcerated, and then recalled from incarceration and placed on shock probation. These "shock revokees" would, in all likelihood, have remained in prison had there been no shock probation. Of the remaining 755 felons, a telephone follow-up indicated that approximately 50% (378) would have been incarcerated had there been no shock probation statute (see page 16). Thus the total number of felons who would have been incarcerated had there been no shock probation statute is estimated to be 667.

The cost of maintaining a prisoner in TDC is estimated to be \$7.50 per day. The cost to the State of supervising a probationer is estimated to be \$0.65 per day. A comparison can be made between maintaining a felon in TDC for two years (730 days) with a felon who is kept in TDC for 120 days and then released on shock probation for the remainder of a two year sentence (610 days).

(1) Cost to maintain 667 persons in TDC for 2 years	667 X 730 X \$7.50 = \$3,651,825
(2) Cost to maintain 667 persons in TDC for 120 days	667 X 120 X \$7.50 = \$600,300
(3) Cost of probation supervision for 667 persons for 610 days	667 X 610 X \$0.65    \$264,466
(4) Cost of shock proba- tion for 667 shock probationers for 2 years	\$864,766 - \$ 864,766
(5) Net savings from use of shock probation rather than incarcera- tion for 667 cases	\$2,787,059

These costs estimates are not intended to arrive at exact figures; however, they are conservative, considering that many sentences are for longer than two years.

Further, these cost estimates do not take into consideration such indirect cost savings, such as: (1) taxes paid by probationers, (2) family support paid by taxpayers, and (3) restitution to victims, payment of court costs, fines, and fees, all paid by probationers.

Since shock probation has been in effect for such a short time, only a small number of shock probationers entered into the cost comparisons shown earlier. In the long run, it can readily be seen that the cost of shock probation is considerably less than that of incarceration.

#### ABSTRACT

Shock probation, a rehabilitation technique by which a defendant is given a brief taste of prison or jail and then placed on probation for the remainder of the sentence, was authorized by the Texas Legislature effective August 29, 1977. The 1980 TAPC Shock Probation Survey evaluates the use of shock probation in Texas since the law went into effect.

Of the 87 departments responding to the survey out of the 106 queried, 75 reported having used shock probation. From these 75 departments, 1078 adults have been placed on shock probation during the time span August 29, 1977 to April 8, 1980. Of this number, 808 shock probationers are still on probation, 49 have successfully terminated their probation, and 221 had unsuccessful probations. The 221 adults considered to have had unsuccessful probations were divided as follows: 121 had their probations revoked, 66 revocations were pending, 18 probationers had absconded, and 16 probationers were considered "unsuccessful," although their probations had not actually been revoked.

Prior knowledge of subsequent shock probation by the defendant is an important issue in shock probation. The 1980 TAPC Survey showed 66% of the departments responding expressed the opinion that in order for shock probation to be really effective, a defendant should not be informed of being placed on shock probation until recalled from incarceration. In contrast, it was reported that 65% of all felony shock probationers and 68% of all misdemeanor shock probationers had prior knowledge of subsequent shock probation.

Effectiveness of shock probation was rated in various ways. Overall, 71% of the responding departments rated shock probation as effective. Of these departments, 30% gave unqualified approval; 25% thought that it should be selectively applied if it were to be effective; and 16% thought that it would be more effective if truly shock, that is, if the defendant had no prior knowledge. Twenty-two percent thought it too soon to evaluate the effectiveness of shock probation. Only 5% of responding departments thought shock probation was not very effective.

Concerning the impact of shock probation on prison population, it was estimated that approximately 64% of the shock probationers would likely have been incarcerated if shock probation had not been available.

1.0 INTRODUCTION

"Shock" probation is a concept by which a defendant may be given a brief taste of prison or jail life and then placed on probation for the remainder of the term of sentence. Theoretically, the offender should not have prior knowledge of only a brief experience with incarceration.

The concept of shock probation originated in Ohio in 1965. Although shock probation has been used in the United States for 13 years, there is little published information on the use, comparative effectiveness, and judicial and public acceptance of this method of rehabilitation.<sup>1</sup> Currently seven states, including Texas, have shock probation statutes.

Article 42.12, Section 3e.(a) of the Texas Code of Criminal Procedure states

..."the jurisdiction of the courts in this state in which a sentence requiring confinement in Texas Department of Corrections is imposed for conviction of a felony shall continue for 120 days from the date the execution of the sentence actually begins. After the expiration of 120 days...the judge of the court that imposed such sentence may, on his own motion or on written motion of the defendant, suspend further execution of the sentence imposed and place the defendant on probation..." -- T.C.C.P., Art. 42.12, Sec. 3e.(a).

This section and a similar section dealing with misdemeanors (T.C.C.P., Art. 42.13, Sec. 3e.(a)) make up what is known as the Texas "shock probation" statutes.

<sup>1</sup>Teresa C. Sims, "Shock Probation: Background, Issues, and Trends," Texas Journal of Corrections, (Vol. 5, No. 5, September/October 1979), pp. 10-13, 20-21.

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
1.0 Introduction . . . . .	1
2.0 Survey Background. . . . .	2
3.0 Summary of Responses to the 1980 Shock Probation . . . Survey	5
4.0 Analysis and Discussion of the Results . . . . .	14
5.0 The Impact of Shock Probation on Prison Population . .	16
6.0 Planning for the 1981 Survey . . . . .	17



- I. Have your courts ever made use of shock probation? Yes\_\_ No\_\_; if your answer is "No" please skip to question VII.
- II. Please use the categories that follow to give the total number of adults placed on shock probation by your courts since the law took effect on August 29, 1977:
  - A. Number of felony shock probationers: \_\_\_\_\_
  - B. Number of misdemeanor shock probationers: \_\_\_\_\_
- III. Please use the categories that follow to give the total number of adults placed on shock probation by your courts as part of a probation revocation proceeding since the law took effect:
  - A. Number of felony "shock revokees": \_\_\_\_\_
  - B. Number of misdemeanor "shock revokees": \_\_\_\_\_
- IV. Please use the categories that follow to give the total number of adults successfully completing shock probation with your courts since the law took effect:
 

	<u>Felony</u>	<u>Misdemeanor</u>
A. Early discharge/termination	_____	_____
B. Expiration of probation	_____	_____
- V. Please use the categories that follow to give the total number of unsuccessful shock probationers processed by your courts since the law took effect:
 

	<u>Felony</u>	<u>Misdemeanor</u>
A. Revoked	_____	_____
B. Revocation pending	_____	_____
C. Absconded	_____	_____
D. Other	_____	_____
- VI. Please estimate, as best you can, what percent of your shock probationers knew before they were committed to prison or jail that they were going to be placed on shock probation:
  - A. Felony shock probationers who knew: \_\_\_\_\_%
  - B. Misdemeanor shock probationers who knew: \_\_\_\_\_%
- VII. In your opinion, is there a "best time" to inform offenders that they are going to be placed on shock probation? (Please use the back of this page if you need more space for your response) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- VIII. Please give your thoughts on the overall effectiveness of shock probation in discouraging probationers from violating the conditions of their probation and from becoming repeat offenders. (Please use the back of this page if you need more space for your response.) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Please give the name, phone number and county of the person completing this questionnaire for your department:

A. Name: \_\_\_\_\_  
 B. Phone Number: \_\_\_\_\_  
 C. County: \_\_\_\_\_

3.0 SUMMARY OF RESPONSES TO THE 1980 SHOCK PROBATION SURVEY

A summary of responses to the survey is presented in Exhibit 3. In this section, the results of the survey will be summarized item by item. An analysis and discussion of the results will be given in the following section.

Survey Item I. Have your courts ever made use of shock probation?

With 87 departments responding, 75 (86.2%) responded "yes" and 12 (13.8%) responded "no."

Survey Item II. State the total number of adults placed on shock probation by your courts since the law took effect on August 29, 1977.

The 87 responding departments reported their courts placed a total of 1078 adults on shock probation as of April, 1980. Of these, 1044 (96.8%) were felony shock probationers and 34 (3.2%) were misdemeanor shock probationers. Seventy-five departments reported having supervised at least one felony shock probationer and 13 departments reported having supervised at least one misdemeanor shock probationer. Some departments reported having supervised both categories of offenders.

Survey Item III. State the total number of adults placed on shock probation by your courts as part of probation revocation proceedings since the law took effect.

There were 290 "shock revokees." Of this number, 289 were felony "shock revokees" and only one was a misdemeanor "shock revokee." "Shock revokees" make up 26.9% of the 1078 adults discussed in Item II above who have been placed on shock probation since August 29, 1977.

Exhibit 3. 1980 TAPC Shock Probation Survey Summary Report

- I. Have your courts ever made use of shock probation? Yes 75 No 12; if your answer is "No" please skip to question VII.
- II. Please use the categories that follow to give the total number of adults placed on shock probation by your courts since the law took effect on August 29, 1977:  
 A. Number of felony shock probationers: 1044 (75 d; where d=departments)  
 B. Number of misdemeanor shock probationers: 34 (13 d)
- III. Please use the categories that follow to give the total number of adults placed on shock probation by your courts as part of a probation revocation proceeding since the law took effect:  
 A. Number of felony "shock revokees": 289  
 B. Number of misdemeanor "shock revokees": 1
- IV. Please use the categories that follow to give the total number of adults successfully completing shock probation with your courts since the law took effect:
- |                                | <u>Felony</u> | <u>Misdemeanor</u> |
|--------------------------------|---------------|--------------------|
| A. Early discharge/termination | <u>18</u>     | <u>1</u>           |
| B. Expiration of probation     | <u>18</u>     | <u>12</u>          |
- V. Please use the categories that follow to give the total number of unsuccessful shock probationers processed by your courts since the law took effect:
- |                       | <u>Felony</u> | <u>Misdemeanor</u> |
|-----------------------|---------------|--------------------|
| A. Revoked            | <u>121</u>    | <u>0</u>           |
| B. Revocation pending | <u>66</u>     | <u>0</u>           |
| C. Absconded          | <u>18</u>     | <u>0</u>           |
| D. Other              | <u>16</u>     | <u>0</u>           |
- VI. Please estimate, as best you can, what percent of your shock probationers knew before they were committed to prison or jail that they were going to be placed on shock probation:
- |                 |                                 |            |             |
|-----------------|---------------------------------|------------|-------------|
| A. Felony:      | Probationers Who Knew.....      | <u>674</u> | <u>65</u> % |
|                 | Probationers Who Did Not Know.. | <u>370</u> | <u>35</u> % |
| B. Misdemeanor: | Probationers Who Knew.....      | <u>23</u>  | <u>68</u> % |
|                 | Probationers Who Did Not Know.. | <u>11</u>  | <u>32</u> % |
- VII. In your opinion, is there a "best time" to inform offenders that they are going to be placed on shock probation? (Please use the back of this page if you need more space for your response)
- |                                     |             |                          |            |
|-------------------------------------|-------------|--------------------------|------------|
| A. Before Incarcerated              | <u>11</u> d | D. No Absolute Best Time | <u>5</u> d |
| B. While Incarcerated               | <u>11</u> d | E. No Firm Opinion Yet   | <u>2</u> d |
| C. When Recalled From Incarceration | <u>57</u> d | F. Blank                 | <u>1</u> d |
- VIII. Please give your thoughts on the overall effectiveness of shock probation in discouraging probationers from violating the conditions of their probation and from becoming repeat offenders. (Please use the back of this page if you need more space for your response.)
- |                                 |             |                         |             |
|---------------------------------|-------------|-------------------------|-------------|
| A. Effective                    | <u>26</u> d | D. Not Very Effective   | <u>4</u> d  |
| B. Effective for Some Offenders | <u>22</u> d | E. Too Soon To Evaluate | <u>19</u> d |
| C. Effective If Truly Shock     | <u>14</u> d | F. Blank                | <u>2</u> d  |

Data as of: April, 1980

Population Covered: 87%

Participating Departments: 83

Non-Participating Departments: 4

Survey Item IV. State the total number of adults successfully completing shock probation with your courts since the law took effect.

At the time the Survey was taken 808 or 75% of all shock probationers were still on probation and could be considered as successful probationers. In addition, 49 shock probationers, or 4.5% of the total number of adults receiving shock probation have successfully completed their probation.

Of the 49, 36 (73.5%) were felony shock probationers and 13 (26.5%) were misdemeanor shock probationers. Of the felony shock probationers, 18 had early discharge/termination of their probation whereas probation expired for the remaining 18. For the misdemeanor shock probationers, only 1 had early discharge/termination of probation whereas probation expired for the remaining 12.

Survey Item V. State the total number of unsuccessful shock probationers processed by your courts since the law took effect.

A total of 221 adults or 20.5% of the total number of adults receiving shock probation were considered to be unsuccessful shock probationers. All of these probationers were felony offenders; none were misdemeanor offenders. Unsuccessful felony shock probationers can be broken down into several categories as follows (percentages are based on all 1078 shock probationers): 121 (11.2%) had their probations revoked, 66 (6.1%) have their probation revocations pending, 18 (1.6%) have absconded, and 16 (1.5%) were categorized as "other."

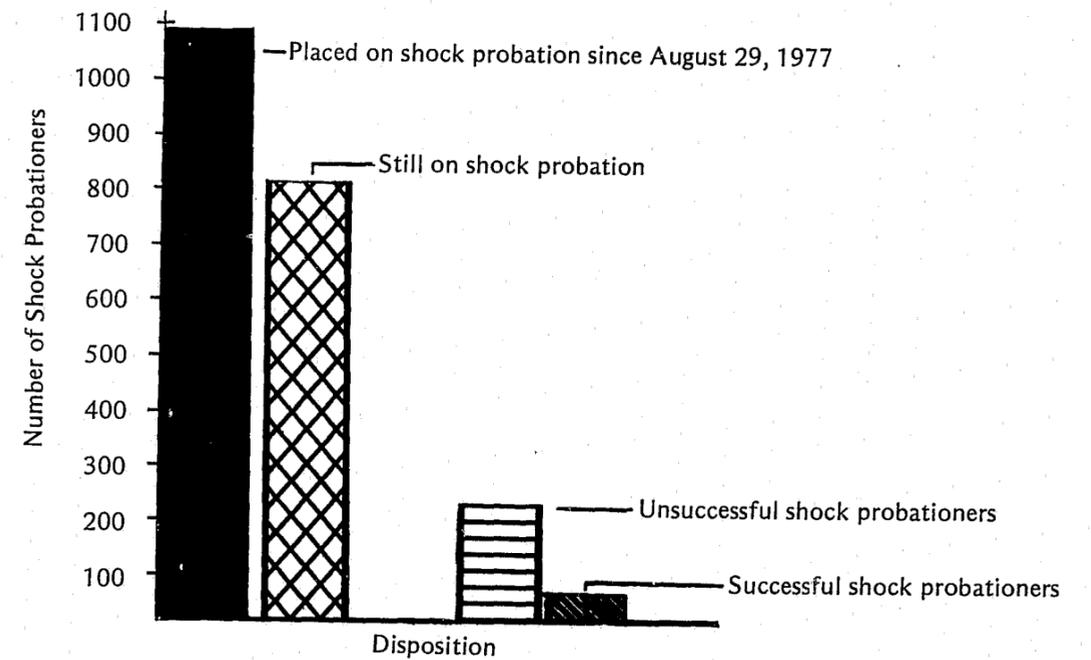
This "other" category was used to describe a variety of alternative responses. Three departments used this category to describe eight shock probationers who had been problem probationers to distinguish them from other "model" probationers whom these departments considered successful. One department reported one shock probationer had been deported. Two departments reported three of their shock probationers had committed offenses while on shock probation and are now serving time at TDC but their probations

Survey Item V. (Continued)

had never been revoked. One department reported one shock probationer was transferred to another jurisdiction because of employment. Another department stated two shock probationers received alternate placement in a court residential center.

Exhibit 4 presents in graphical form the information reported in Survey Items IV and V.

Exhibit 4. Disposition of Shock Probation Cases Since August 29, 1977.



The 1980 TAPC Survey indicates that 75% of shock probationers in departments who responded are still on probation. Thus the "success rate," although it appears small, is based on only a small number of shock probationers who have served relatively short probationary sentences.

Survey Item VI. Estimate the percent of shock probationers who knew before they were committed to prison or jail that they were going to be placed on shock probation.

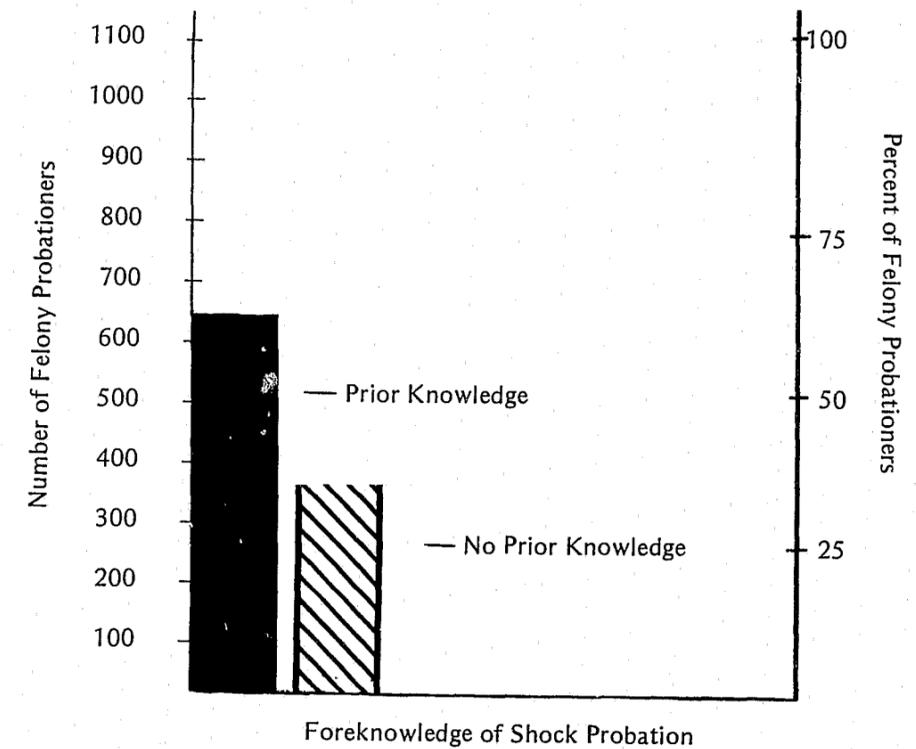
A total of 674 or 65% of all felony shock probationers had foreknowledge of their subsequent shock probation whereas 370 or 35% of all felony shock probationers had no prior knowledge.

A total of 23 or 68% of all misdemeanor shock probationers had foreknowledge of their subsequent shock probation whereas 11 or 32% of all misdemeanor shock probationers had no prior knowledge.

Table 1 presents the results of this inquiry into foreknowledge of subsequent shock probation. These results of prior knowledge of felony shock probation are also shown in graph form in Exhibit 5.

Table 1: Estimation of Foreknowledge of Shock Probation by Probationers				
Category	Felony		Misdemeanor	
	Number	Percent	Number	Percent
Prior knowledge of subsequent shock probation	674	65	23	68
No prior knowledge of subsequent shock probation	370	35	11	32
Total	1044	100%	34	100%

Exhibit 5. Foreknowledge of Felony Shock Probation



Survey Item VII. What is the "best time" to inform offenders that they are going to be placed on shock probation?

A tally of the responses showed 57 departments (65.5%) thought the "best time" to inform offenders is at the time they are recalled from incarceration, 11 departments (12.6%) reported the "best time" is during incarceration, and 11 (12.6%) said the "best time" occurs before incarceration. Five departments (5.7%) thought there was no absolute "best time" and 2 departments (2.3%) had no firm opinion yet.

Responses to this item are summarized in Table 2.

Table 2: Estimation of "Best Time" to Inform Shock Probationers About Shock Probation. Number and Percent of Departments Responding in Each Category.		
Category	Departments Responding	
	Number	Percent
A. Before Incarcerated	11	12.6
B. While Incarcerated	11	12.6
C. When Recalled From Incarceration	57	65.5
D. No Absolute "Best Time"	5	5.7
E. No Firm Opinion Yet	2	2.3
F. Blank	1	1.1
Total	87	100.0%*

\*Total not exactly 100.0% because of rounding.

Survey Item VIII. State your opinion on the overall effectiveness of shock probation in discouraging probationers from violating conditions of their probation and from becoming repeat offenders.

Sixty-two departments (71.3%) thought shock probation was effective. Effectiveness was qualified as follows: 26 or 29.9% of the departments gave an unqualified approval to shock probation, 22 departments (25.3%) thought it effective for some offenders, and 14 departments (16.1%) thought it effective if truly shock. In this regard, these departments expressed the opinion that it was difficult to keep knowledge of subsequent shock probation from defendants. For example, the possibility of shock probation may enter into plea bargaining. Or the prison grapevine is so effective prisoners frequently gain advance knowledge.

Four departments (4.6%) thought shock probation was not very effective. Nineteen departments (21.8%) thought it was too soon to evaluate, many of these departments having had little or no experience with shock probation.

Responses to this item are summarized in Table 3.

Table 3: Overall Effectiveness of Shock Probation. Number and Percent of Departments Responding in Each Category.		
Category	Departments Responding	
	Number	Percent
A. Effective	26	29.9
B. Effective for some offenders	22	25.3
C. Effective if truly shock	14	16.1
D. Not very effective	4	4.6
E. Too soon to evaluate	19	21.8
F. Blank	2	2.3
Total	87	100.0%

4.0 ANALYSIS AND DISCUSSION OF THE RESULTS
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The 87 departments responding to the 1980 TAPC Shock Probation Survey reported their courts have placed 1078 adults on shock probation since the law took effect on August 29, 1977. Seventy-five departments reported they had supervised at least one felony shock probationer and 13 departments indicated they had supervised at least one misdemeanor shock probationer.

Of the 1078 defendants placed on shock probation, 49 or 4.5% successfully completed probation and 221 or 20.5% have been classified as unsuccessful shock probationers (the remaining 75% still being on probation). Of the 221 unsuccessful shock probationers, 187 (or 84.7% of the 221 unsuccessful shock probationers) have either had their probations revoked or the revocation is pending. The remaining 34 shock probationers were classified as unsuccessful for a variety of reasons, but their probation had not been revoked.

An important issue in shock probation is the relationship between the effectiveness of shock probation and the time at which the defendant is informed of placement on shock probation. In the 75 departments supervising felony shock probationers it was reported only 35% of the defendants had no prior knowledge of their subsequent shock probation. In the 13 departments supervising misdemeanor shock probationers, it was reported 32% of the defendants had no prior knowledge of subsequent shock probation.

In contrast with the reality that most defendants have foreknowledge of shock probation are the opinions of the majority of adult probation departments concerning the best time to inform defendants they are going to be placed on shock probation. Sixty-six percent of the departments felt for shock probation to be really effective, a defendant should not be told of placement on shock probation until recalled from incarceration. Another 13% thought a defendant should first be told at some point after incarceration, while 13% thought a defendant should be told prior to incarceration.

Although foreknowledge of future shock probation was thought to lessen the effectiveness of shock probation by the vast majority of departments, several departments pointed out the difficulty of keeping the defendant ignorant of the possibility of shock probation. Some departments mentioned that many times shock probation enters into the plea bargaining process. These departments felt shock probation should not be a part of plea bargaining -- shock probation should be solely the decision of the judge. Other departments mentioned the efficient prison grapevine system which precluded keeping knowledge of shock probation from the offender once he was incarcerated. However, Article 42.12, Section 3e.(a) of the T.C.C.P. does permit the prisoner to file a written motion requesting consideration for probation. This raises the interesting question of how many of the defendants placed on shock probation initiated the process themselves.

Some departments made comments on the relative value of shock probation, feeling it may be of more value for some offenders than for others. For example, middle class clients and those who may not be considered "criminals" seem to respond favorably to shock probation. Two departments felt shock probation is effective in the first few months following recall, but that the effectiveness wears off in subsequent months. Several departments felt shock probation was effective if used selectively. Categories mentioned in which shock probation might be effective were young offenders, DWI cases, and unsophisticated (not repeat) offenders. Shock probationers in one department stated they might not have completed probation successfully without having been exposed to prison. In contrast, however, one department stated flatly it did not want its probationers serving time in TDC.

In another use of the Texas shock probation statutes, the survey indicated 290 or 26.9% of the 1078 shock probationers were put on shock probation as the result of a probation revocation hearing. In these cases, when an individual violated the conditions of his regular probation, the sentencing judge ordered the defendant temporarily incarcerated then recalled and replaced on probation.

5.0 IMPACT OF SHOCK PROBATION  
ON PRISON POPULATION

A question not covered by the 1980 TAPC Shock Probation Survey but one of considerable interest is: "Is shock probation used as an alternative to regular probation or as an alternative to long term incarceration?" Seven departments which account for most of the shock probationers were asked this question by telephone. Based on the results of these telephone calls, our best current estimate is that about 50% of the shock probationers would not have been placed on probation had shock probation not been available to the courts; in other words, these probationers would, in all likelihood, have been incarcerated.

In addition, "shock revokees" (adults who were placed on shock probation by the courts as part of a probation revocation) would most likely have been incarcerated if there had been no shock revocation statute. Combining the "shock revokees" with the probationers mentioned above who would probably have been incarcerated, the percent of probationers who would be incarcerated if there were no shock probation statute increases from 50% to about 64%.

6.0 PLANNING FOR 1981 SURVEY

Since Texas shock probation laws have been in effect less than three years, there is little information concerning its effectiveness. The 1980 survey represents the initiation of a monitoring system which will attempt to answer questions concerning the effectiveness of shock probation.

A 1981 TAPC Shock Probation Survey is being planned by the Division of Information Services. We would appreciate your comments, suggestions, and/or questions that you may like to have considered in this next Survey. You are invited to use the rest of the page for this purpose. Please return your notes to this Division.

NOTES

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