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This Issue in Brief

Estimates of Drug Use in Intensive Supervision Probationers: Results from a Pilot Study.—Authors Eric D. Wish, Mary Cuadrado, and John A. Martorana present findings from a pilot study of drug use in probationers in the New York City Intensive Supervision Probation (ISP) Program, a study prompted by ISP staff need for on-site urine testing of ISP probationers. Confidential research interviews were conducted with 106 probationers in the Brooklyn ISP program, 71 percent of whom provided a urine specimen for analysis. The urine tests indicated a level of drug use strikingly higher than the level estimated by probation officers, who depended upon the probationers to tell them about their drug use. The authors contend that the costs of reincarcering drug abusers who fail probation are substantial when compared with the costs of a urine testing program. They conclude that ISP programs, with their small caseloads and emphasis on community supervision, provide a special opportunity for adopting systematic urine testing and for learning how best to intervene with drug abusing offenders.

Felony Probation and Recidivism: Replication and Response.—As a result of the Rand report on felony probation in California, probation supervision is attracting close attention. In the present study, author Gennaro F. Vito examines the recidivism rates of 317 felony probationers from three judicial districts in Kentucky and makes some direct comparisons to the Rand report. The general conclusion that felony probation supervision appears to be relatively effective in controlling recidivism rates is tempered by the limitations of both studies. The author stresses the need to closely examine the purpose and goals of probation supervision.

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Felony Probation and Recidivism: Replication and Response

BY GENNARO F. VITO, PH.D.

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IN JANUARY 1985, the Rand Corporation published a report (Petersilia and others, 1985b) which presented data on over 16,000 felons convicted in California's superior court during 1980, as well as recidivism data on a subsample of 1,672 felony probationers from Los Angeles and Alameda counties. Almost immediately, this report attracted a great deal of attention and rekindled public interest in the effectiveness of probation supervision at a time when incapacitation and punishment of offenders has become the dominant sentiment in corrections and overcrowding plagues our penal institutions. Summaries of this study have been published in three different locations (Petersilia, 1985a, 1985b, and Petersilia et al. 1985a). It has been hailed by one corrections expert (Conrad, 1985b: 71) as "the most important criminological research to be reported since World War II." This article presents recidivism data on a sample of felony probationers from Kentucky and provides, on a much smaller scale, several points of comparison with the Rand study. In this fashion, responses to conclusions contained in the Rand report will also be discussed.

Previous Research on Probation Recidivism

In the Rand report, the authors (Petersilia et al., 1985b: 2) state that their study constitutes "the first systematic research on felony probation." A more accurate assertion is that the Rand study represents the first large-scale analysis of felony probation. In fact, probation supervision has long been a target of criminological research. For example, a recent National Institute of Law Enforcement and Criminal Justice-sponsored report on the state of the art in probation (Allen et al., 1979) contains a thorough summary of the research on probation supervision published over a 26-year period. Furthermore, since these studies focused on probationers convicted of felonies (ranging from Internal Revenue Service violations to property crimes like forgery and burglary), they represent the pre-Rand study status of probation recidivism research.

As summarized by Latessa (Allen et al., 1985: 261), these studies did suffer from some basic methodological weaknesses, the most glaring of which was the failure to "define a base . . . against which to compare findings in order to support a claim that probation is an effective alternative for rehabilitating offenders." The 10 studies summarized in this report generated failure rates defined in various ways (i.e., arrests, convictions, revocation) over different followup periods (ranging from 6 months to 12 years). The recidivism rates took the following forms (Allen et al., 1985: 260): arrest (29.6 percent), arrest and/or conviction (30 and 41.5 percent), conviction (16.4 and 17.7 percent) and revocation of probation and incarceration (22.5 to 55 percent). Latessa concluded that these studies provide a "rule of thumb that probation can be considered to be effective, and that a failure rate above 30 percent indicates that it is not effective."

Despite the flaws in these studies and their basic lack of comparability, they do provide a benchmark for research on probationer recidivism. Yet, the Rand focus upon felony probationers was a sound basis for a policy study since these offenders, in the absence of probation supervision, would go to prision. The report should serve as a point of comparison for further study of this subject. As Conrad (1985: 71) has written, replication of the Rand study in some "dissimilar settings," may "show the way at last to a rational sentencing system and eventually to the substantial reduction of public fright."

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*A version of this article was presented at the "Probation and Parole" panel of the Western Society of Criminology meetings in Newport Beach, California, February 28, 1986.

This article is drawn from data collected for a larger study conducted by the Kentucky Criminal Justice Statistical Analysis Center (SAC). The SAC is funded by the Bureau of Justice Statistics, U.S. Department of Justice, Grant No. 84-BJ-CX-0013. The Kentucky SAC is housed in the Office of the Attorney General and is operated by the Urban Studies Center at the University of Louisville. Points of view or opinions expressed in this document are those of the author and do not necessarily represent the official position or policies of the Bureau of Justice Statistics, the Kentucky Office of the Attorney General, or the University of Louisville.

The author wishes to acknowledge the valuable assistance provided by the following persons which made this study possible: Jack B. Ellis, Tony Biggs, and Al Nash of the Urban Studies Center, Robert H. Rhea, Doug Sapp, Danny Yeary, Jerry Nichter, Scott Ward, and C. L. Watts of the Department of Community Services of the Kentucky Corrections Cabinet, Dr. Ronald M. Holmes of the School of Justice Administration, and Joan Petersilia for her thoughtful comments on an earlier draft of this article.

Methodology

The research sample for the present study was drawn from a larger project conducted by the Kentucky Criminal Justice Statistical Analysis Center which attempted to assess the feasibility of implementing an offender-based tracking system in Kentucky (OBTS - Vito and Ellis, 1985, Bureau of Justice Statistics, 1983 and Bureau of Criminal Statistics and Special Services, 1985). The OBTS feasibility study collected and analyzed disposition data from arraignment in district court (or direct indictment in circuit court) for the population of offenders charged with a Part One Index Crime (from the Uniform Crime Report designation as classified for the commonwealth by the Kentucky State Police: murder, rape, robbery, assault, burglary, larceny/theft, and arson) in the year 1982. Data were collected from the 6th (Daviess County), 14th (Bourbon, Scott, and Woodford Counties), and 30th (Jefferson County) judicial districts of Kentucy. To permit followup of offenders placed on probation, 1982 was selected as the base year.

However, this group of offenders was not representative of the statewide total of 1982 index felons, due to the fact that the judicial districts were not selected through probability sampling. In an attempt to roughly approximate the criminal justice system of the commonwealth, a large urban (30th) district, a midsize (6th) district, and a rural (14th) district were selected for study. Therefore, any conclusions drawn from these data must be interpreted with extreme caution, since the OBTS data do not technically represent felony case processing for Kentucky in 1982.

Offenders were tracked through the criminal justice system as far as their case progressed. If the offender was sent on to circuit court (misdemeanor cases are disposed of in district court), data were collected from circuit court files. In other words, all information on court processing was obtained from hard copy files—records which were maintained in the respective counties. Data on recidivism were collected from state probation and parole offices in each judicial district. The maximum followup period for a case was 36 months.

Tracked in this fashion, the OBTS analysis identified 317 convicted felons who were placed on probation in 1982. Our recidivism analysis consciously sought to replicate the methods used in the Rand study. However, when comparisons are made between the two studies, several qualifications must be kept in mind. First, this sample is far smaller than the one contained in the Rand report. Second, it should be clear that the results of this study are not representative of the state of felony probationer performance in Kentucky. The Rand study (1985b: 16) was very careful to make similar statements:

> ... our recidivism results should not be generalized to all adult probationers. Counties with less serious offenders in their probation populations or with more resources might have lower recidivism rates. ... we are not assessing probation's overall effectiveness. ... The characteristics of felony probationers are not necessarily those of probationers in general.

Therefore, the findings of both studies must be cautiously interpreted, since the samples were selected in such a way that the research subjects were not necessarily representative of that state's population of felony probationers, not to mention felony probationers in other locations.

Third, this analysis concentrates upon the recidivism rates of felony probationers. The OBTS system did not contain information from the presentence investigation on each offender, so we were unable to consider other crucial issues addressed by the Rand report, such as the factors related to the probation/prison sentencing decision, the proper use of the presentence investigation, and the ability to predict the risk of recidivism posed by felony probationers.

Fourth, our definition of recidivism was somewhat broader than that used in the Rand study. In addition to the standard definitions of arrest, conviction, and incarceration for a new offense, the present study singled out the rate of probation violation (i.e., failure to maintain the conditions of supervision) and incarceration for a probation violation as a separate category of recidivism. The Rand study (1985b: 20) failed to consider this measure, because the researchers "had no information on it." Finally, the Rand study utilized a 40-month followup period to track felony probationers. The current study used a 36-month followup period—close enough to permit comparisons of the research findings. Our study begins with an analysis of the use of probation and imprisonment in Kentucky for the years 1981-83.

Probation and Imprisonment in Kentucky: 1981-83

Table 1 presents information compiled by the Bureau of Justice Statistics on the nationwide probation (1982b, 1983b, and 1984b) and prison populations (1982a, 1983a, and 1984a), as well as the percentage change in each population between 1981 and 1983. These years were chosen for two reasons: 1) 1981 was the year before the current subjects were placed on probation, and 2) 1983 was (at the present time) the most recent year for which probation population statistics were available.

First, it is obvious that in Kentucky, the South, and the nation, both the probation and prison populations increased over this time period. In Kentucky, the rate of increase between 1981 and 1983 for both populations was relatively constant. The Kentucky probation population increased by 14.5 percent, while the prison population rose by 13.7 percent (while the

TABLE 1. PROBATION AND PRISON POPULATION STATISTICS, 1981-83

	1981		1982		1983		% Change 81-83	
	Pop.	Rate	Pop.	Rate	Pop.	Rate	Pop.	Rate
PROBATION								
Kentucky	13,100	504	14,516	553	14,999	561	+14.5	+11.3
South	468,855	848	536,145	949	621,308	1,075	+32.5	+26.8
Nation	1,222,024	735	1,335,359	791	1,502,247	897	+22.9	+22.0
PRISON								
Kentucky	4,167	114	4,051	110	4,738	127	+13.7	+11.4
South	159,712	206	180,388	224	186,373	225	+16.7	+ 9.2
Nation	368,772	160	412,303	170	438,830	179	+19.0	+11.9

Rates are expressed per 100,000 resident population.

1982 Kentucky prison population figure does not include 162 prisoners held in local jails.

Sources: Bureau of Justice Statistics Bulletins (See bibliography).

rates per 100,000 population increased by 11.3 and 11.4 percent, respectively). These figures reflect an even more dramatic increase for both the South and the nation. In the South, the probation population increase was approximately twice that of Kentucky (32.5 percent - population and 26.8 percent - rate), while nationwide the rate of increase was also greater than Kentucky's. With regard to the prison population, the national and southern rates were only somewhat greater or even less than (9.2 percent increase in the rate/100,000 population in the South) the figures registered by Kentucky.

In sum, it is clear that the use of probation in Kentucky was somewhat less than that of its southern counterparts, yet the use of incarceration was relatively equal. It is difficult to make any definite conclusions concerning the causes of this finding, especially when one must remember that the Kentucky Corrections Cabinet was operating under a court order for one of its institutions (La Grange Reformatory) which limited prison population increases. Yet, it would appear that Kentucky was not especially "lenient" in terms of its probation during this timeframe.

Disposition of Circuit Court Convictions in the Three Kentucky Judicial Districts in 1982

In fact, the disposition of all circuit court index crime felony convictions in the three Kentucky judicial districts supports the previous statement. The data in table 2 indicate that the use of probation tends to follow the severity of the offense, with the possible exception of assault (58.7 percent probation rate for all assault dispositions). Burglary was the leading offense in terms of the percentage of convicted offenders sentenced to shock probation[1] (50.9 percent, jail (32.2 percent), and prison (60.1 percent).[2] It appears that serious crimes most often drew a sentence involving some form of incarceration.

TABLE 2. OBTS: DISPOSITION OF CIRCUIT COURT CONVICTIONS IN THREE JUDICIAL DISTRICTS, 1982

Type of Crime	Probation	Shock	Jail	Prison	Totals
Murder	22	7	4	36	69
	(31.9)	(10.1)	(5.8)	(52.2)	(6.3)
Rape	18	3	6	25	52
	(34.6)	(5.8)	(11.5)	(48.1)	(4.8)
Robbery	50	5	29	89	170
	(29.4)	(2.9)	(17.1)	(50.6)	(15.6)
Assault	98	2	59	8	167
	(58.7)	(1.2)	(35.3)	(4.8)	(15.3)
Burglary	130	28	89	100	347
	(37.5)	(8.1)	(25.6)	(28.8)	(31.9)
Larceny/Theft	104	10	82	61	257
	(40.5)	(3.9)	(31.9)	(23.7)	(23.6)
Arson	12	0	7	8	27
	(44.4)		(26.0)	(29.6)	(2.5)
Totals	434	55	276	324	1,089
	(39.9)	(5.1)	(25.3)	(29.7)	

[1] Under Kentucky law, an offender can be released on shock probation by the sentencing judge within 90 days of incarceration. Action can be taken upon a motion filed by the inmate, by counsel for the inmate, or on the initiative of the sentencing judge. Persons ineligible for regular probation (i.e., persons convicted of a Class A, B, or C felony involving the use of a firearm, a sex offense with a minor, on felony probation or parole when the new felony offense was committed, or sentenced as a persistent felony offender) are also ineligible for release on shock probation.

[2] Here, the reader must keep in mind that the index crime categories are collapsed. Therefore, crimes such as manslaughter in the second degree would be included in the category of murder. Thus, the index crime categories may not reflect the actual charge and probably overstate the severity of the charge at conviction.

Table 3 contains information on the conviction offense of cases contained in the research sample. Again, these cases represent persons who were originally charged with an index crime and were eventually convicted of a felony and placed on probation in 1982 in the three Kentucky judicial districts. Misdemeanant cases were excluded from the analysis. Here, the most typical offenses were burglary and a group of property crimes including larceny-theft (in Kentucky, theft over $100), forgery, and receiving stolen property (approximately 31 percent for each group). Thus, the majority of offenders sentenced to probation were convicted of a property crime.

Overall, this breakdown of conviction offenses was remarkably similar to that contained in the Rand study.[3] There, the majority of probationers (68 percent) were convicted of burglary, receiving stolen property, and auto theft, while persons convicted of robbery and aggravated assault accounted for 23 percent of the sample (Petersilia et al., 1985b:17). In the present study, these percentages were 62.7 percent and 25.6 percent respectively. Given the fact that the samples for the two studies were selected in different ways, this similiarity is even more remarkable. The Rand study (1985b:16) utilized the following sampling scheme:

> For Alameda County, we selected every probationer for whom data were available; for Los Angeles, we selected all probationers who were convicted of drug offenses, a random sample of approximately half of those convicted of violent crimes, and approimately one-fifth of those convicted of property crimes.

This sampling procedure attempted to approximate the statewide distribution of offenses in California: "A majority are property offenders; substantially fewer are violent and drug offenders." In the present study, felony probationers were not sampled. The 317 felony probationers reflected the system processing of 5,506 index felony offenders who were arraigned in district court in the three judicial districts in 1982 (Vito and Ellis, 1985:6). Given the similiarity in the distribution of crimes at conviction between the two studies, it would appear that a comparison of the research findings is warranted.

[3]The Rand and Kentucky samples were also roughly comparable in terms of the number of counts at conviction. In the Kentucky sample, 77 percent of the offenders had only one count at conviction compared to 95 percent of the Rand cases. However, in terms of race, there was much more ethnic diversity in the Rand sample (33 percent white, 25 percent black, 25 percent hispanic, and 11 percent other and unknown) than in the Kentucky sample (63 percent white, 36 percent black, and 1 percent hispanic). There is little doubt that these differences arise from the diverse racial compositions between these two states. Due to the fact that the OBTS system did not contain information on such variables as employment, educational level, prior adult or juvenile record, status at arrest, victim information, weapon information, and drug or alcohol use, it was not possible to make further comparisons between the two samples.

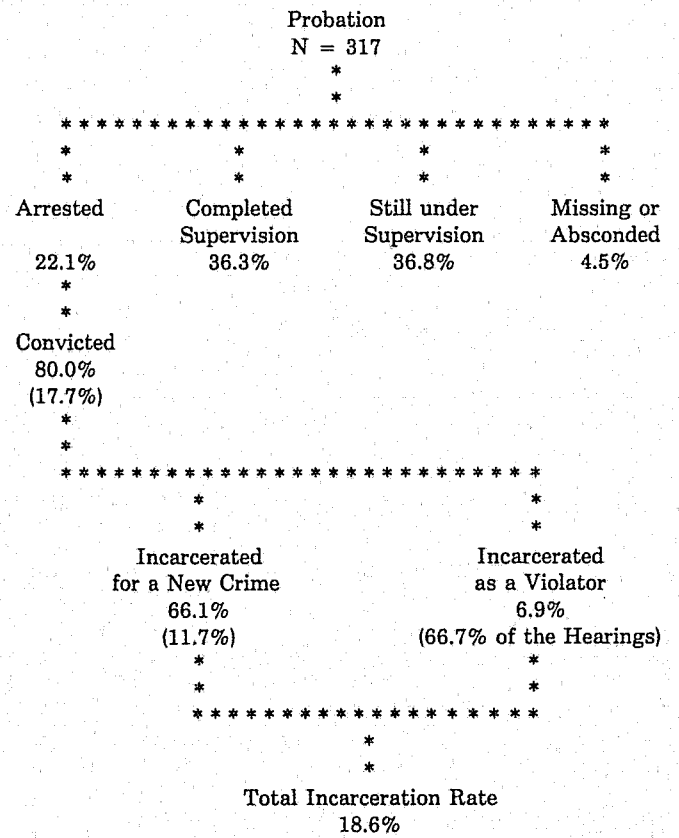
TABLE 3. PERSONS SENTENCED TO PROBATION BY CONVICTION OFFENSE

Type of Crime	N	%
Manslaughter	14	4.4
Rape & Other Sex Crimes	8	2.5
Robbery	25	7.9
Assault	56	17.7
Burglary	100	31.5
Theft, Forgery & Receiving Stolen Property	99	31.2
Arson	9	2.9
Drugs & Other	6	1.9
Total	317	

Recidivism Analysis

In the present study, each category of recidivism (arrest, conviction, reincarceration) was considered and reincarceration rates were divided between those offenders returned on a conviction for a new crime versus those returned via a technical violation of the conditions of supervision.

TABLE 4. RECIDIVISM TREE: FELONY PROBATIONERS IN THE THREE KENTUCKY JUDICIAL DISTRICTS



A roughly equal number of probationers had either completed or were still under supervision at the time of the analysis. Overall, approximately 22 percent of the felony probationers were rearrested. Of those who were arrested, 80 percent were convicted (18 percent of the total group). Almost 66 percent of the convicted probationers were sent to prison for a new offense (11.7 percent of the total) and an additional 2 percent of the total group were sentenced to jail (see figure 1). Overall, roughly 7 percent of all probationers were reincarcerated for a technical violation of the conditions of supervision. Therefore, the total prison reincarceration rate for felony probationers was 18.6 percent. It should also be noted that 6 out of 10 probation violation hearings resulted in incarceration. This rate was higher than the revocation rates listed in previous studies of probation cited by Latessa (Allen et al., 1985: 261). There are two possible explanations for this finding. First, it is probable that, as a result of due process requirements, hearings are not held frivolously and that strong evidence of violation is brought to bear against the offender. Second, in Kentucky, revocation hearings are held before a judge (rather than a hearing officer) who may be significantly impressed with the seriousness of the charges against the offender. In any event, the clear pattern is that the majority of revocation hearings result in the incarceration of the probationer. These rates are summarized and compared to those contained in the Rand study in figure 1.

In the Rand study (1985b:21), 65 percent of the felony probationers were rearrested, 51 percent were convicted, 12 percent were sent to jail, and 22 percent were incarcerated in prison. Compared to the current study, the Rand rearrest and conviction rates were much higher, but the prison reincarceration rates were similar (22 percent vs. 18.6 percent). Yet, the Rand study did not include reincarceration for a technical violation as a possible outcome. The current study indicates that, if this information had been available, the Rand study prison incarceration rate would have been higher. Thus, although the two groups under study appeared to be similar, their performance on probation differed. Of course, there are any number of variables which could account for these differences, including caseload size, style of probation supervision, and differences in demographic and urbanization patterns between California and Kentucky.

FIGURE 1. FELONY PROBATIONER RECIVIDISM RATES IN KENTUCKY

Table 5 presents information on the type of crime committed by felony probation recidivists (excluding the technical violators). It is clear that misdemeanors and property felonies account for the major portion of rearrests and reconvictions (approximately 70 percent each). However, in terms of reincarceration rates, felonies lead the way (total percentage of 65). A different type of recidivism breakdown is presented in table 6.

TABLE 5. TYPES OF CRIME COMMITTED BY FELONY PROBATIONER RECIDIVISTS

Status	Property Felony	Personal Felony	Drugs	Misd.
Arrested	28 (33.7%)	21 (25.3%)	4 (4.8%)	30 (36.1%)
Convicted	19 (30.2%)	17 (27.0%)	2 (3.2%)	25 (39.7%)
Incarcerated	8 (34.8%)	7 (30.4%)	2 (8.6%)	6 (26.1%)

Table 6 presents data on charges filed against felony probationers by the original conviction offense. Here, it is apparent that persons convicted of burglary were most likely to be charged with another property crime (55.6 percent), that probationers convicted of larceny-theft were most likely to be charged with a violent crime (30.7 percent) or a misdemeanor (36.4 percent), and that burglars accounted for 40.7 percent of all technical violators. Drug offenses accounted for only a small number (4) of all recidivist offenses. In sum, offenders convicted of property, rather than violent, offenses were most likely to be charged with a new crime as a probationer, and the bulk of these new crimes were not violent offenses but property felonies (29 percent), technical violations (29 percent), and misdemeanor crimes (23.7 percent).

This distribution was roughly comparable to that reported in the Rand study (1985b: 24) with property crimes (led by theft, forgery, and auto theft with 29 percent accounting for 51 percent of all new crimes and violent crimes (led by robbery with 9 percent) amounting to 24 percent of the charged crimes. However, in terms of the volume and seriousness of crime committed by recidivists, the crimes committed by the Rand study sample outstripped those committed by the Kentucky sample of felony probationers. The Rand researchers (1985b: 25) concluded that "recidivists in these two counties concentrate on serious property and violent crimes—the crimes that society considers most threatening" and "that recidivists have a strong tendency to be reconvicted of the same type of crime." This was clearly not the case in the Kentucky study. Here, offenders did not seem to specialize at all, and, in terms of recidivism, misdemeanor offenses and technical violations of probation conditions were more prevalent than property and violent felonies.

TABLE 6. FINAL INDEX CRIME CHARGE AT CONVICTION BY NEW OFFENSE ON PROBATION

	Type of New Offense					
Index Crime	Property Felony	Violent Felony	Drugs	Misd.	Violation	Total
Murder	0	0	1 (25)	0	0	1 (1.1)
Rape	0	0	0	0	0	0
Robbery	2 (7.4)	3 (23.1)	1 (25)	5 (22.7)	2 (7.4)	13 (14)
Assault	3 (11.1)	2 (15.4)	0	2 (9.1)	4 (14.8)	11 (11.8)
Burglary	15 (55.6)	3 (23.1)	0	7 (31.8)	11 (40.7)	36 (38.7)
Larceny/Theft	6 (22.2)	4 (30.7)	1 (25)	8 (36.4)	8 (29.6)	27 (29)
Arson	0	0	0	0	1 (3.7)	1 (1.1)
Forgery	1 (3.7)	0	0	0	0	1 (1.1)
Other Felonies	0	1 (7.9)	1 (25)	0	1 (3.7)	3 (3.2)
Totals	27 (29)	13 (14)	4 (4.3)	22 (23.7)	27 (29)	93 (100)

Average Time to Recidivism

Another issue in recidivism research is the amount of time it takes an offender to commit another crime. Traditionally, such analyses have focused upon the length of the followup period necessary to make a valid assessment of recidivism rates. Recent studies (Kitchener et al., 1977; Hoffman and Stone-Meierhoffer, 1980) of parolees in the Federal system have demonstrated that the amount of time given to the followup period has a significant impact upon the size and nature of recidivism rates. In addition, Flanagan (1982) has utilized time after release as a variable in its own right as an indicator of the speed at which different categories of releasees recidivate. The Rand study (1985b: 25) employed a variation of this approach, calculating the median time between the time of the probation grant to the first officially filed charge while under supervision. By type of conviction offense, it was discovered that property of-

fenders were the quickest to recidivate (5 months), followed by violent offenders (8 months), and drug offenders (15 months).

The present study did not include probationers convicted of drug offenses, since drug offenses are not included as index crimes. The rates in table 7 reveal that persons convicted of a property crime were charged with a new offense (or a technical violation) sooner that persons convicted of a violent crime. The median time to recidivism for a property felony probationer was 375 days (approximately 12 months) versus 598 days (approximately 20 months) for a probationer convicted of a violent felony. The pattern evidenced in the Rand study was also present among Kentucky felony probationer recidivists, but each group had a longer period to recidivism than their California counterparts.

The percentage of the sample of Kentucky felony probationers with filed charges over the 36-month followup period is presented in figure 2. The graph demonstrates that recidivism of probationers who were originally charged with a property crime peaks within the first 6 months and then declines over time. The percentage of probationers who were convicted of a violent crime peak within the first year levels off and then increases. The pattern demonstrated in the Rand study led the researchers to conclude that "after about two years, property and violent offenders have either resumed their careers or have 'retired'" (Petersilia et al., 1985b: 25). The current study resulted in a similar relationship between the variables. The main difference is the increase in the percentage of violent felony probationers who were charged with a new offense close to the end of the followup period.

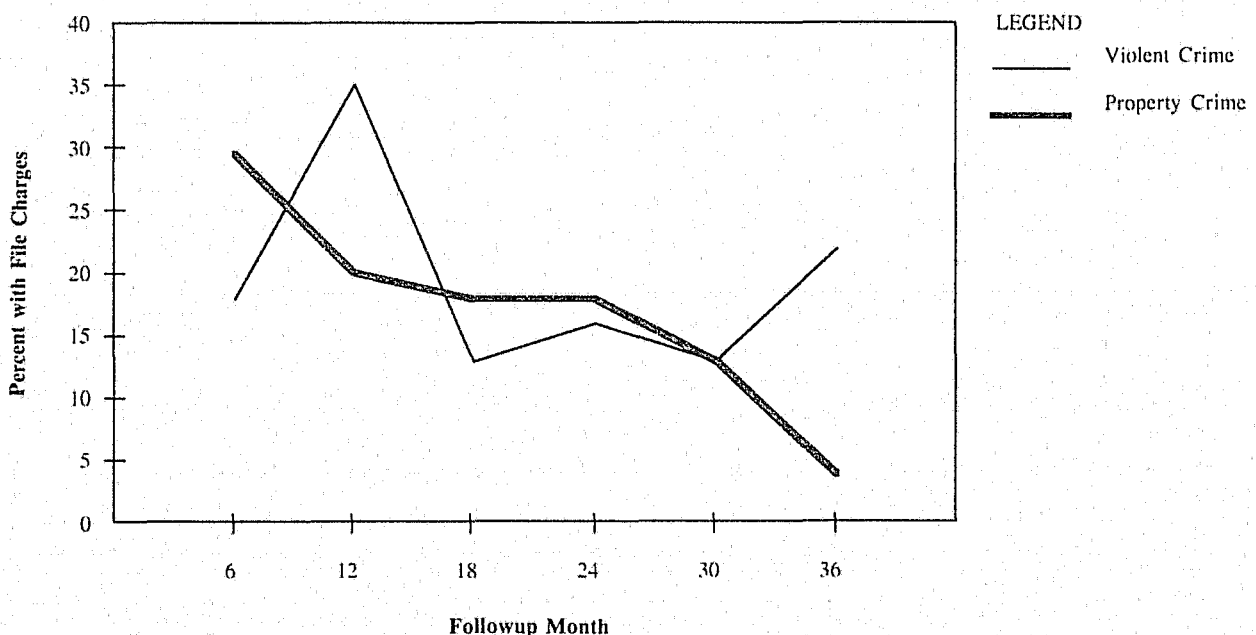
Implications and Recommendations

The Rand study (1985b: 78) stated that the research results were "by no means intended as an indictment of probation departments. With their reduced budgets and mountainous caseloads, they cannot be expected to supervise probationers closely." The conclusion was that the fault lies with the inability of the system to provide alternative sentences for first offenders which, in turn, would hopefully provide more prison space to incapacitate serious offenders. Here, the Rand researchers made several specific policy recommendations, several of which have been in place in Kentucky for quite some time.

TABLE 7. DAYS BETWEEN INITIAL DATE OF SUPERVISION AND THE DATE OF FILED CHARGES BY TYPE OF FELONY CONVICTION

Original Crime	N	Mean	Median	Mode	Std. Dev.
Violent Felony	23	620.7	598	1082	314.8
Property Felony	61	431.1	375	280	251.3

FIGURE 2. TIME UNTIL NEW CHARGE BY ORIGINAL CRIME AT CONVICTION



For example, the Rand researchers advocate the establishment of "user fees" for probationers to cover the costs of preparing the presentence report and the cost of supervision and to provide funding for new programs like intensive supervision (Petersilia et al., 1985b: 81). Section 439.315 of the Kentucky criminal code states that a person placed on probation (or parole) shall pay a fee (for a felony, between $500 and $2,500) to offset the cost of supervision. Fees collected in this manner are placed in the Kentucky General Fund and are not specifically nor solely designated for correctional expenditures.

In addition, the Rand researchers endorsed the use of risk/needs assessment scales designed by the National Institute of Corrections to clarify the purpose of supervision by identifying those offenders who require either close surveillance (risk) or specialized treatment (need). The Kentucky Office of Community Services has been using this system since October 1984. However, both the implementation of and the reasons behind the use of risk/needs assessment scales must be clearly specified. For example, Wright, Clear, and Dickson (1984) have demonstrated that these instruments are not universally applicable and that they must be carefully validated in each locale. They tested the Wisconsin scale with a sample of New York City probationers and determined that many of the variables contained in the instrument did not predict risk. Recently, Kratcoski (1985) has indicated that risk/needs instruments should be primarily used to insure efficency and the productive use of resources within supervision levels. It should not be assumed that recidivism will be reduced at all supervision levels.

Kentucky has also implemented an intensive supervision program which was designed in response to prison overcrowding. Like other programs of this type (see Petersilia et al., 1985b: 66 - 72), the Kentucky program limits caseload size to 25 clients and seeks to subject the client to close surveillance (i.e., a 10 p.m. to 6 a.m. curfew, 7 days per week). An initial evaluation of the program (Office of Administrative Services, 1985) during the first year of operation reveals that only three of the four hundred offenders under intensive supervision have been returned to prison as the result of a new felony conviction. The Rand report supported the use of intensive supervision as a potential method to "satisfy public demand that the punishment fit the crime, to show criminals that crime doesn't pay, and to control potential recidivists" which is "tough enough to provide genuine control over felony probationers" (Petersilia et al., 1985: 65 - 66).

It is this endorsement, in the absence of substantial research evidence demonstrating the effectiveness of intensive supervision, which is most troubling. The Rand report is not alone in this suggestion (see Conrad, 1985a). While there is no doubt that there exists a definite need to provide unity of purpose to probation supervision (Clear, 1985) and that use of intensive supervision is one method to help fill this void, we must be especially careful not to fall into an old correctional trap—the panacea phenomenon (See Finckenauer, 1982; Dean-Myrda and Cullen, 1985). The promotion of intensive supervision as a cure for a number of correctional ills with potentially conflicting goals (saving government expenditures, reducing prison overcrowding, reducing caseload size while increasing surveillance of probationers and reducing recidivism rates) could serve to generate unrealistic expectations about the effectiveness of this approach. Clearly, we have been down this path before, and correctional experts and professionals should know better than to repeat the mistakes of the past. Where will we be if intensive supervision fails to meet these rising expectations?

There is already some evidence that trouble could be brewing on this front. Bennett (1984) has suggested that there is no theoretical basis to assume that reduced caseload size will result in lower recidivism rates. Research by Latessa and Vito (1984) comparing the performance of shock probationers placed in an Ohio-based intensive supervision program to those placed on regular supervision determined that, while the intensive group received more contacts and referrals which led to more positive adjustment (i.e., a higher employment rate), the difference in recidivism rates between the two groups was not statistically significant. The goals of intensive supervision must be clearly specified and measured so that we avoid the premature crucifixion of intensive supervision upon the "cross of recidivism."

Conclusions

Comparison of the findings of the current study and the Rand report lead to the conclusion that felony probation supervision appears to be relatively effective in containing or limiting recidivism. The two studies contain several similar, if not duplicative, findings in this area. The most salient point is the close correspondence in prison reincarceration rates (Rand: 22 percent, Kentucky: 18.6 percent). Both rates are far below the "30 percent threshold" of failure identified in previous studies of felony probationer recidivism. Yet, it was also evident that the Rand group committed new offenses which were more serious than those of their Kentucky counterparts. Such differences underscore the need to conduct research in different locales in order to draw more definite conclusions about felony probation.

Yet, it must be recalled that each study has its limitations. Two serious common restrictions are the questionable representativeness of the two samples and the basic lack of comparison to another similarly situated group of offenders. As a result, both studies must be considered as exploratory in nature. Future research on the state of felony probation effectiveness should include measures other than recidivism (i.e., cost savings. effectiveness of service delivery).

The need to closely examine the workings of felony probation is especially pressing as methods to safely reduce the size of the prison population are sought (see Finn, 1984). We must not be quick to endorse or condemn probation supervision as it attracts new attention as a potential solution to the crime problem and as its mission is clarified.

References

Allen, H. E., Carlson, E. W., and Parks, E. C. (1979) *Critical Issues in Adult Probation: Summary.* Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice.

Allen, H. E., Eskridge, C. W., Latessa, E. J., and Vito, G. F. (1985) *Probation and Parole in America.* New York: The Free Press.

Bennett, L. (1984) "Practice in Search of Theory: The Case of Intensive Supervison." Paper presented at the annual meeting of the Academy of Criminal Justice Sciences in Chicago, Illinois.

Bureau of Criminal Statistics and Special Services. (1985) *Adult Felony Arrest Dispositions in California, 1984.* Sacramento: California Department of Justice.

Bureau of Justice Statistics. (1982a) *Prisoners in State and Federal Institutions on December 31, 1981.* Washington, D.C.: U.S. Department of Justice.

_____. (1982b) *Probation and Parole 1981.* Washington, D.C.: U.S. Department of Justice.

_____. (1983a) *Prisoners in State and Federal Institutions on December 31, 1982.* Washington, D.C.: U.S. Department of Justice.

_____. (1983b) *Probation and Parole 1982.* Washington, D.C.: U.S. Department of Justice.

_____. (1984a) *Prisoners in 1983.* Washington, D.C.: U.S. Department of Justice.

_____. (1984b) *Probation and Parole 1983.* Washington, D.C.: U.S. Department of Justice.

_____. (1983) *Tracking Offenders.* Washington, D.C.: U.S. Department of Justice.

Clear, T. R. (1985) "Managerial Issues in Community Corrections." In *Probation, Parole and Community Corrections,* edited by L. F. Travis III, pp. 33 - 46. Prospect Heights, Illinois: Waveland Press.

Conrad, J. P. (1985a) "The Penal Dilemma and Its Emerging Solution." *Crime and Delinquency* 31: 411 - 422.

_____. (1985b) "News of the Future: Research and Development in Corrections." *Federal Probation* 49 (2): 69 - 71.

Dean-Myrda, M. and Cullen, F. T. (1985) "The Panacea Pendulum: An Account of Community as a Response to Crime." In *Probation, Parole and Community Corrections,* edited by L. F. Travis III, pp. 9 - 32.

Finckenauer, J. (1982) *Scared Straight! and the Panacea Phenomenon.* Englewood Cliffs, New Jersey: Prentice Hall.

Finn, P. (1984) "Prison Crowding: The Response of Probation and Parole." *Crime and Delinquency* 30: 141 - 153.

Flanagan, T. (1982) "Survival in the Community: An Analysis of the Temporal Distribution of Recidivism Among Three Groups of Prisoners." Paper presented at the annual meeting of the Academy of Criminal Justice Sciences in Louisville, Kentucky.

Hoffman, P. and Stone-Meierhoeffer, B. (1980) "Reporting Recidivism Rates: The Criterion and Follow-Up Issues." *Journal of Criminal Justice* 8: 53 - 60.

Kitchener, H., Schmidt, A. K., and Glaser, D. (1977) "How Persistent Is Post-Prison Success?" *Federal Probation* 41 (1): 9 - 15.

Kratcoski, P. C. (1985) "The Functions of Classification Models in Probation and Parole: Control or Treatment-Rehabilitation?" *Federal Probation* 49 (4): 49 - 56.

Latessa, E. J. and Vito, G. F. (1984) "The Effects of Intensive Supervision on Shock Probationers." Paper presented at the annual meeting of the Academy of Criminal Justice Sciences in Chicago, Illinois.

Office of Administrative Services, Planning and Evaluation Branch. (November 1985) *Intensive Supervision Program Report.* Frankfort, Kentucky: Kentucky Corrections Cabinet.

Petersilia, J. (1985a) *Probation and Felony Offenders.* Washington, D.C.: U.S. Department of Justice.

_____. (1985b) "Probation and Felony Offenders." *Federal Probation* 49 (2): 4 - 9.

Petersilia, J., Turner, S., Kahan, J., and Peterson, J. (1985a) "Executive Summary of Rand's Study, 'Granting Felons Probation: Public Risks and Alternatives.'" *Crime and Delinquency* 31 (3): 379 - 392.

_____. (1985b) *Granting Felons Probation: Public Risks and Alternatives.* Santa Monica: Rand Corporation.

Vito, G. F. and Ellis, J. (1985) *An Offender Based Tracking System Study of Three Judicial Districts in the Commonwealth of Kentucky.* Louisville, Kentucky: University of Louisville - Urban Studies Center, Kentucky Criminal Justice Statistical Analysis Center, Office of the Attorney General.

Wright, K. N., Clear, T. R., and Dickson, P. (1984) "Universal Applicability of Probation Risk-Assessment Instruments: A Critique." *Criminology* 22 (1): 131 - 134.