

SHOCK PROBATION: THE OHIO EXPERIENCE

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SHOCK PROBATION: A FINAL REPORT

PREFACE

This is the final report on the administration and findings of the Shock Probation Study. In the Memorandum of Understandings of 17 December 1971, the Center for the Study of Crime and Delinquency outlined a three-pronged project on shock probation, including: 1) the decision-making process of judges, 2) the effectiveness of shock probation based on an empirical analysis, and 3) a judicial-correctional conference to discuss shock probation, its use, effectiveness, and applicability. The Center for the Study of Crime and Delinquency further agreed to conduct and report on research embracing the first two phases of the project.

Principal Investigators of this research project were Professors Paul Friday and David Petersen, who contracted to provide the Final Report on or before 31 December 1972. Graduate research associates assisting the principal investigators were Raymond Michalowski and Edward Bohlander.

Data in the Final Report are drawn from papers by the principal investigators presented at professional and trade meetings and conferences,¹ an article published in the Georgia Journal of Corrections,² working papers which the graduate research associates have or will have presented at conferences, and most especially from Edward Bohlander's unpublished doctoral dissertation entitled "Shock Probation: The Use and Effectiveness of an Early Release Program as a Sentencing Alternative."³ No statement or inference of originality by the authors of this Final Report is intended or should be inferred.

This project was supported in part by Grants (380-00-J-70 and 3860-00-J3-72) from the Law Enforcement Assistance Administration through the Administration of Justice Division (SPA) of the Ohio Department of Economic and Community Development to the Ohio State University Program for the Study of Crime and Delinquency. Such support of funding does not necessarily indicate concurrence with the contents, implications or recommendations within. Any substantive error remains the responsibility of the principal investigators.

SHOCK PROBATION: THE OHIO EXPERIENCE

The Concept of Shock Probation

A convicted felon in the United States is faced with two possible "treatment" dispositions -- the court may place him on probation or sentence him to an institution. The process involved in determining which alternative is employed is not always clear, but it is assumed to depend upon the nature of the crime, the circumstances and the characteristics of the offender.

Criminologists and the courts see definite advantages and disadvantages to each alternative. Incarceration first serves to protect the society; it isolates the offender, takes him out of circulation thereby reducing his opportunities to commit his crime again and subsequently reduces community anxiety over his presence. It may also fulfill punitive (atonement), therapeutic, or preventive objectives.⁴ In addition, incarceration may function to deter others from committing the offense, provide a setting where "rehabilitative" therapy may be employed and reinforce cultural norms and values by demonstrating the absolute power of the State.

Probation, on the other hand, is designed to keep the offender in the community and not isolate him from his family and the influence of non-criminal values. It attempts to avoid many of the perceived disadvantages of incarceration such as exposure of the naive offender to more sophisticated and hardened criminal elements or the increased bitterness and negativism associated with the deprivation of liberty.

Neither incarceration nor probation by itself may be a viable or effective approach to crime control. Incarceration may reach a point of diminishing returns. Studies have indicated that communities spend enormous sums of money keeping offenders imprisoned longer than is necessary; so long, in fact, that the chances of any rehabilitation is decreased. The findings of a California State Assembly Report emphasize the absence of a positive correlation between time served in prison and subsequent criminal conduct.⁵

In Florida following the 1963 U.S. Supreme Court decision in the Gideon case, 1,252 felons were summarily released long before their normal release dates. The Department of Corrections matched 110 of these early releasees with comparable offenders who served their full terms and found that 28 months after release, 13.6 percent of the Gideon group had returned to criminal activity in contrast to 25.4 percent of the full-time releases.⁶ Similar results of reduced sentences were also reported from the State of Washington and California.⁷

It is difficult to assess the results of probation studies because of the numerous imponderables involved, but claims of success are

relatively high. Whether due to the selection process or the possible self-correcting nature of many of the clients, probation as an alternative has been supported. Empirical studies of the effectiveness of probation have generally demonstrated claims of a 50-90 percent "success" rate.⁸ In a summary analysis of eleven probation studies since 1920, England found four indicating 80-90 percent adjustment during the probation period, five with 70-80 percent, and two reporting 60-70 percent.⁹ Caldwell looked at post-probation success after eleven years for Federal probationers in Alabama and found that 83.6 percent committed no new offense.¹⁰

Despite the relatively high "success" rate, probation may not be the appropriate sanction for all offenders. There still remains a group of 10-15 percent of those probated who do not succeed. These "failures" may have needed the prison experience, treatment, or supervision; their experiences and backgrounds may have required more structure and supervision, not minimal contact.

There is an alternative to the prison versus probation dilemma; this is to incarcerate the offender for part of his sentence, suspend the remainder, and place him on probation. Such a procedure is a judicial decision, not one made by a division of correction or parole board. This option exists in modified form in Sweden, Denmark, Federal courts in the United States and in the States of Ohio, Maine, California, and Wisconsin.

The split sentence attempts to combine the advantages of probation with some of the advantages of incarceration. On the one hand, it attempts to avoid the long-term prison commitment and subsequent hardening of attitudes, while at the same time providing constant supervision for a short period of time. Moreover, it is intended to impress the offender with the hardships and psychological problems of isolation and prison life.

The advantage of combining incarceration with probation is debatable. One argument for such a practice is that institutionalization may be to the inmate's advantage. Incarceration provides the opportunity to evaluate the needs of the offender in more detail and helps him utilize training and other educational services provided by the prisons. Correctional personnel may better be able to determine the needs of the individual while at the same time providing the authorities with greater control over him and consequently providing greater protection for the society.¹¹

Another advantage of a mixed or split sentence is to "shock" or "jolt" the individual into a realization of the realities of prison life through the experience of imprisonment.¹² For example, the United States provision under Public Law 85-741, 85th. Congress, 72 Stat. 834, provides a minimum sentence of six months to be served in a county or local jail instead of federal or state institutions. This permits the offender to remain in his local community and close to his family while, at the same time, experiencing the negative aspects of incarceration.

Those opposed to mixed sentences argue that a person is either eligible for probation or he is not; prison and probation are dichotomies and cannot and should not be mixed.¹³ One spokesman for this position has pointed out "...that once having determined that a person can be trusted to remain in the community and can benefit most under community supervision, no appreciable benefits can be derived from committing to a short period of incarceration..."¹⁴

In addition, the argument is made that mixed sentences "contaminate" the individual and any chance he might have of rehabilitation. This argument suggests that any time spent in an institution is disruptive of normal therapeutic efforts which might be made in a more open setting.¹⁵ Besides, short-term stays may even harden attitudes, expose the individual to more criminals, and make him resentful, feeling that he has served his "debt".¹⁶

A third argument against mixed sentences is more abstract than the first two, but along the same lines. It is held that to mix sentences is to act contra to the stated purpose and objectives of probation; jail time is inconsistent with the philosophy of probation.¹⁷ Probation is viewed as non-punitive and any use of prison makes the work of probation officers more complex and, in the long-run, may defeat the purpose of community supervision.¹⁸ The purpose of probation is to avoid incarceration, not be a supplement to it.

Most of the debate on mixed sentencing has occurred in the United States, but as far as we know, there exists no empirical research in this country to support or reject the practice. Experimental programs have been set up to test split sentence effectiveness in Sweden, France, Norway, and the Netherlands, but statistical or empirical results are incomplete.¹⁹

Christiansen and Bernsten in a study conducted in Denmark looked at short-term prisoners who were randomly placed in an intensive socio-psychological treatment group and control group. They concluded that short-term incarceration may be effective as a sanction, but only under special circumstances, for certain types of offenders, and when it is utilized as the first step in the process of resocialization.²⁰ While they did not draw any conclusions regarding the effectiveness of short-term incarceration except that the incidence of recidivism increased with the length of sentence, they did state that non-institutional treatment should be utilized if at all possible since the individual can remain in the community, maintain contacts with his family, retain his job, and avoid some of the stigma of institutionalization.²¹ This conclusion in the main supports the findings of the Small Committee of Research Workers of the Council of Europe who concluded that non-institutional commitments should be attempted and where incarceration is required, that it should be applied to only certain types of offenders, but those types are not specified.²²

Hartshorne, a federal judge in the United States, concluded from

his experiences in sentencing that such a practice of imposing short-term prison treatment should be applied only when probation is not applicable.²³ He notes two conditions when split sentences should be used: (1) when probation is not sufficient on the merits of the case (i.e., the nature of the crime and the societal reaction to it), and (2) when the individual has already demonstrated that he has violated a probation order. In sum, previous research does not enable one to draw any definite conclusions regarding the use of split sentences as a correctional tool.

Shock Probation: The Ohio Experience

Seven years after the implementation of the federal split-sentence statute, the legislature of the State of Ohio passed into law Section 2947.06.1 of the Ohio Revised Code which called for the enactment of what has come to be known as "shock" probation. The original Ohio statute differed from the federal law in several respects: (1) unlike the federal split-sentence, the period of incarceration under Ohio law was not specified; (2) the decision to grant shock probation is a modification of the original sentence carried out after imposition of the original sentence has begun; (3) the place of incarceration under the Ohio statute is a state prison or reformatory, not a local jail as specified in the federal jurisdiction.

Specifically, the Ohio statute of 1965 stated that "the trial court may, upon motion of the defendant made not earlier than thirty days nor later than sixty days after the defendant, having been sentenced, be delivered into the custody of the keeper of the institution in which he is to begin serving his sentence, or upon the court's own motion during the same thirty-day period, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines, notwithstanding the expiration of the term court during which such defendant was sentenced."²⁴

Although passage of this bill was practically unanimous in both houses of the Ohio Legislature, the legislators responsible for its introduction were unable at the time of this writing to determine the interest group which pushed for the passage of the legislation. The agency which has taken the greatest interest in the use of shock probation in Ohio, however, is the Ohio Adult Parole Authority. This agency was newly formed in 1965 and took some interest in the legislative enactment of the shock probation experiment.

According to the Ohio Adult Parole Authority (APA), shock probation was passed into law because "some citizens felt that probation, without some period of confinement in a state penal institution, was inadequate to persuade a defendant who had committed one felony that he should not commit another."²⁵ It is clear that these "citizens," like their counterparts at the federal level, chose to overlook the theoretical arguments which regard probation and incarceration as separate sentencing alternatives and the integration of the two techniques as counter-productive.

The shock probation alternative was thought to provide five positive correctional functions:

1. A way for the courts to impress offenders with the seriousness of their action without a long prison sentence.
2. A way for the courts to release offenders found by the institution to be more amenable to community-based treatment than was realized by the courts at the time of sentence.
3. A way for the courts to arrive at a just compromise between punishment and leniency in appropriate cases.
4. A way for the courts to provide community-based treatment for rehabilitable offenders while still observing their responsibilities for imposing deterrent sentences where public policy demands it.
5. Shock probation affords the briefly incarcerated offender, a protection against absorption into the 'hard rock' inmate culture.²⁶

In the literature available regarding this technique, no mention is made of possible deleterious effects.

There is evidence that the purpose of the statute as originally formulated was not clear to the magistrates for whose use the law was intended. In a 1971 report the APA states that "here and there were judges who used shock probation on convicts who had experienced numerous convictions." This usage obviously negated any shock value in the technique. Furthermore, "some judges were reducing the 'shock' effect... by telling the offenders at the time of their commitment that if they would have their attorneys file motions for 'shock' probation, the court would give them favorable consideration."²⁷

To add to the confusion, motions timely filed by the defendant were sometimes not acted upon by the presiding magistrate for over a year--a period after which most convicted felons in Ohio are eligible for parole. To relieve this ambiguity the state legislature amended the shock probation statute in 1969 as follows: "The court shall hear any such motion for shock probation within sixty days after the filing date thereof and shall enter its ruling thereon within ten days thereafter."²⁸ Thus, the court after November of 1969 was obligated not only to hear the motion for reconsideration of sentence but to act on the motion. Concomitantly, time limitations were specified which, when adjusted to the stipulations for a timely-filed motion, would force the magistrate to grant or to deny the motion for shock probation within 130 days of the original date on which the defendant was incarcerated.

Judicial compliance with this statutory limitation has been sporadic at best. The prosecuting attorney in at least one major Ohio County has filed suit to force judges to comply with the law. A judge in an urban county in northern Ohio suggested to one of the investigators in a personal conversation that the 1969 amendments to the statute represented the interest of defense attorneys who dominate the Ohio legislature and strive to limit judicial discretionary power.

The questions of judicial compliance and legislative interests aside, the amended statute only formalized the confused and erratic implementation cited by the APA as characteristic of the early years of the use of shock probation.²⁹

The amended statute also included a provision which allowed other judges of the same court to hear a motion for shock probation if the original judge was unable to hold the hearing. The law as amended states that the hearing shall be held by "the judge who imposed such sentence, unless he is unable to act thereon and it appears that his inability may reasonably be expected to continue beyond the time limit for such action." The statute also stipulates that "in such cases, a judge of such court or assigned thereto may dispose of a motion filed under this section, in accordance with an assignment of the presiding judge, or as prescribed by the rules or practices concerning responsibility for disposition of criminal matters."³⁰

This particular amendment had the effect of formalizing a questionable area of judicial responsibility. Prior to the 1965 enactment of the statute, judges in the various common pleas courts of Ohio had the option of "vacating" the sentences of convicted felons. This infrequent practice had two drawbacks, according to the proponents of shock probation. First, the vacated sentence did not formally allow the judge to place the defendant under community supervision after a brief period of incarceration; and, second, only the presiding judge could vacate the sentence and only in his term of court. Thus, a convicted felon sentenced in the last few days of a specific judge's term of court could not be released from the correctional facility through judicial grace.

Another procedural requirement is found in case law (State vs. Viegel, 34 00 (2d) 96), wherein it is stated:

"In hearing such a motion, the defendant's good conduct in the penal institution after his incarceration is not material in determining whether the court should suspend further execution of sentence and place the defendant on probation."

The shock probation statute as it is now formulated in Ohio has received praise from many quarters. With few exceptions, the judiciary sees this sentencing alternative as a workable and working solution

to the problem of recidivism among first offenders. Community-based correctional workers see it as an effective tool which "jolts" the naive offender into a more lucid perception of reality. However, the staffs of the various correctional institutions throughout the state remain generally unimpressed with the technique. Curiously, perceptions of the "value" of shock probation --both negative and positive--are quite rigid, considering the fact that no rigorous scientific study of this treatment technique has been conducted in order to ascertain, even at a descriptive level, the uses and effectiveness of this sentencing alternative.

Research Questions and Design

The phase of the research addressing the decision-making process of judges sought answers to the following questions:

- 1) Who initiates application for shock probation (counsel or judge);
- 2) Who grants shock probation and to whom (inter-county and inter- and intra-judge variations by offense type);
- 3) Who does or does not receive shock probation (characteristics of offenders, judges, type of offense, demographic characteristics, type of counsel, etc.); and
- 4) On what criteria do judges base their decisions?

The second phase concerned the effectiveness of shock probation, both in absolute and relative terms, and attempted to answer the following questions:

- 1) What is the effectiveness of shock probation, in terms of re-arrest, recidivism, reincarceration, stability of offender following release, etc. (A control group might be offenders originally placed on probation but never incarcerated); and
- 2) Do persons placed on shock probation actually reflect the alleged benefits (in contrast with those for whom shock probation is requested but denied, and in contrast with both original probationers never incarcerated and incarcerated felons)?

Data addressing these questions were gathered in two different phases, the first addressing shock probation statewide and the second focusing on one major metropolitan county.

The statewide study

The original study design proposed that the sample which would be most representative could be drawn from the probation departments of selected counties throughout the state. This sample was to be combined with data made available through cooperation of the Ohio Adult Parole Authority. Time limitations, budgetary constraints, and legal considerations forced the abandonment of this original design and it was decided to limit the study to a sample drawn from the records of the State Department of Corrections.

The Department of Corrections of the State of Ohio does not compile general records which include all of those variables which the research team hoped to measure in studying the use and effectiveness of this sentencing alternative. Therefore, it was concluded that the sample should be drawn from the various correctional institutions throughout the state. It was clear that this was not the most desirable technique for drawing the sample since no comparisons could be made between those persons receiving shock probation and those receiving regular probation. However, the research team concluded that it would be valuable to describe and measure the difference between those incarcerated felons who received shock probation and those who were eligible under the law to receive shock probation but who were not released.

Originally, it was decided to gather data on all persons released on shock probation from the six male institutions and the one state correctional facility for women since the implementation of the statute in 1965. (See Table 1). Again temporal and budgetary constraints beset the research project, and the design was once more adjusted to these limitations. The final design included a sample composed of those persons released from the state's two correctional institutions for youthful offenders in 1966 and 1970 and a similar sample drawn from the women's reformatory. It was the opinion of those involved with the research that this sample would be representative of the most frequent usages of the law, as well as providing a longitudinal view of the early implementation and the usage of the law after the statute had become a somewhat institutionalized sentencing alternative.

Having decided to take the universe of shock probationers from three correctional facilities for two separate calendar years as a sample, it was decided to draw a comparison group of cases eligible for shock probation under law but not released from the institution. Using the institutional entrance log, a two-to-one control sample was drawn from the eligible case entering the institution immediately before the offender granted shock probation and the eligible case entering immediately following the shock probationer. Thus, the total sample in this study included sixty-one shock probation cases in 1966 and 485 shock probation cases in 1970 and the control samples

TABLE 1

Use of Shock Probation

<u>Year</u>	<u>Number of felons committed to penal institutions who were granted shock probation</u>	<u>Percentage of felons committed to penal institutions who received shock probation</u>
1966	85	2.7%
1967	183	5.5
1968	294	7.8
1969	480	11.7
1970	632	14.7
1971	907	18.4
1972	<u>1,292</u>	<u>26.0</u>
TOTAL	3,873	13.6%

drawn for these groups.³¹

The instrument used to gather the data from the institutional files was constructed after receiving a sample file containing the maximum amount of data available in the institutional records. It was later discovered that the available data varied from institution to institution; yet, the field research workers found only less data in the records of other institutions when compared to the sample file taken from the Lebanon Correctional Institute on which the original instrument was based. A pilot study was conducted at one of the facilities and it was concluded that the instrument was sufficient for the data collection.³² The arrangement of the "questions" in the instrument was so constructed as to facilitate the collection of the data as it is found in the institutional case records.

The data included six general categories of variables. The first group of variables specified the demographic characteristics of the case and included age, race, marital status, I.Q.,³³ and size of community legal residence.

Second, data were gathered concerning the legal particulars of the cases. These included the county from which the individual was sentenced, the name of the sentencing judge, the date of sentence, the dates of admission, transfer, and release from the institution, the offense for which the individual was convicted, the second offense

on the indictment for which the individual was convicted, the minimum and maximum periods of incarceration as prescribed in the sentence, the admission status of the case (regular or probation or parole violation, etc.), outstanding detainers on the individual from other jurisdictions, the presence of a pre-sentence report,* and the sentencing recommendation of the probation department,* the name of the defense attorney and the type of representation--public or private--provided by the attorney,* the initiator of the petition for shock probation,* the plea which the defendant entered at court, the document--information or indictment--upon which the conviction was based, and the presence or absence of a request by the sentencing judge for information regarding the individual's adjustment to prison life.*³³

The third category of variables measured the offender's prior involvement in criminal activity. These data were found in pre-sentence reports (when available), institutional social service summaries, and Federal Bureau of Investigation record sheets. The variables in this group were identified as the age of first offense (juvenile or adult), the number of contacts which the offender had with juvenile authorities, the number of times the individual had been sent to a juvenile institution, and the amount of time he or she spent in the institution. The individual's adult record was measured by the number of adult arrests, the number of jail commitments, the time spent in jails, the number of previous prison commitments, and the total time spent in correctional institutions.

The social and economic indicators used to measure the status of the individual included the subject's occupation and educational level, his or her father's occupation and educational level, the number of children or adults dependent on the individual, and the criminal involvement of the parents or siblings of the subject.

The fifth area--institutional adjustment--was clearly the most difficult to measure with the available data. Since individuals receiving shock probation were in the institution for periods of time as short as thirty days, little data could be found in their institutional records regarding their adjustment to penitentiary life. The only available data deemed satisfactory here were the number and magnitude of seriousness of citations for violations of prison rules.*

The final variable considered in this study was the present disposition of subject. Clearly, the effectiveness of shock probation as a sentencing alternative can only be measured by the post-release behavior of the subject. The measure of success or failure used in this study was whether the subject was re-arrested and returned to the institution or declared a probation or parole violator and not returned. It is interesting to note that while the researchers provided in the instrument for the possibility of re-arrest without re-incarceration, there were no such cases in the sample.

The county study

Unlike the statewide study, the county study was able to overcome the deficiencies in sampling by focusing not on the institution, but by initiating the research in the county probation department. The county study also included a comparison based on a control sample of non-incarcerated persons receiving regular probation.

The sample year used in the county study is 1970. This calendar year was chosen for two reasons. First, legislative amendments to the shock probation statute instituted in 1969 (as described above) introduced a new procedural stipulation which would allow for an analysis of judicial compliance with legislative mandates. Second, records of the agencies where the data were to be collected had just begun to clearly differentiate between shock probation and the earlier judicial practice of "vacating" the sentence.

The sample of those cases receiving shock probation in 1970 is based on the probation department's log entries for that year. It was not until 1971 that annual lists of those persons receiving shock probation were compiled by the staff of the probation department. Therefore, it was necessary to scan the 1970 log to identify all shock probation cases. The sample of shock probationers includes all persons granted shock probation in 1970, even though they may have been sentenced before that year plus all persons granted shock probation after 1970 whose pre-sentence reports were prepared in 1970. The total number of cases in the sample of shock probationers was sixty men and seven women.

Two comparison groups were drawn for the county study. The first of these was made up of cases receiving regular probation as a sentence for a felony conviction. This comparison group was drawn from the probation department records by taking the case immediately preceding and the case immediately following each shock probation case listed in the agency's log. This sample included 30.1 percent of all those persons granted probation in the county in 1970.³⁴

The second comparison group was selected from the institutional records of four of Ohio's seven adult male correctional facilities and the records of the Ohio Reformatory for Women. The institutional admission date for each convicted felon receiving shock probation was determined and the comparison group was compiled by selecting the case immediately preceding and the case immediately following each shock probation case in the institutional admission log. Only those cases eligible for shock probation, but not released under the statute, were selected for comparison.³⁵

Although the necessary data for the sample of shock probationers and the regular probation control group was readily available at the office of the county Probation Department, the collection of data for the institutionalized comparison sample proved to be slightly

more complex. The Ohio correctional system has two "receiving institutions" for male offenders. After initial processing and classification which takes approximately six weeks, the prisoner is often transferred to a second institution; and, indeed, he may be transferred a subsequent time if the circumstances of his incarceration should prescribe such action.

Unfortunately, any one individual may appear on several admission logs following a series of transfers. The individual's institution records are transferred with the subject on each move. The significance of these policies of the correctional system for the researcher rests in the problems of tracing an individual through the system from institution to institution in the attempt to locate the specific institution in which the individual is presently incarcerated, or (as was most often the case in the present study) that institution from which the subject had subsequently been paroled. Once an individual is released on parole, his institutional records are maintained at the institution at which he had last been confined.

Although the sample of institutional controls was drawn from the admissions registers of the two receiving institutions, it was necessary to locate the institutional files for data collection at four different correctional facilities. The institutional sample, then, was comprised of two cases for each one case of shock probation. The sample of 120 cases for males represents 38.8 percent of all those sentenced to state correctional facilities from the county in 1970 excluding those released on shock probation. For women, on the other hand, the institutional control sample comprised 70.0 percent of all those women sentenced in 1970, while fully 25.0 percent of all those women sentenced to the women's reformatory received shock probation.

To facilitate comparative analysis the design and columnar specifications of the instrument used in the statewide study were adopted with some minor modifications for the County study.³⁶ The identification numbers of probation and shock probation cases were substituted for institution numbers, and categories for the present disposition of the subject were added to the questionnaire to compensate for possible variations in status under normal probation conditions. These variations in legal status or present disposition include the possibilities of the subject being currently on probation, currently on shock probation, absconding while on probation or shock probation (in violation of probation), arrest for a new offense or technically violating probation, failing to meet the requirements of probation and, thus, having the original period of probation extended, and the successful completion of probation or shock probation.

Several other variables were subsequently added to the instrument. These included (1) the total number of adult probation sentences previously imposed on the subject and (2) the number of these successfully completed; (3) the original probation period stipulated by the court; (4) the presence of a report by the probation department prior

to a hearing for reconsideration of sentence and (5) the recommendation contained in that report; (6) any indication in the pre-sentence report of remorse on the part of the offender and (7) any indication in the pre-shock report of offender remorse; and (8) the consistency of the subject's employment record.

The data describing the status of the defense attorney--privately retained or court appointed--were generally unavailable in both the files of the probation department and the institutional inmate files. Since this information was considered vital for an analysis of the administration of sentencing, the defense attorneys who were identified by name in the records were contacted either by phone or in person to determine their status in each sample case. Through this procedure data were gathered on approximately sixty percent of all attorneys represented in the sample.³⁷ In the process of determining whether the attorneys were court appointed or privately retained, it was also determined who had filed the petition requesting a hearing for the consideration of shock probation for those who had been released under the statute. Similarly for the institutional control group, it was determined if such a request had been made and who, if anyone, initiated the proceedings.

Of the 15 common pleas judges who presided in the cases of the 335 cases represented in the sample, 11 were interviewed. The interview was open-ended and was conducted to determine predisposition of the magistrate toward certain types of offenders in the administration of sentences.³⁸ Although considerable difficulty was experienced in setting appointments for interviews and a limited amount of time was allowed by most judges, it was possible to collect a substantial amount of "soft" data to aid in an analysis of the use of shock probation in the county.

Summary of Research Design

Exploratory, descriptive research is not designed to test specific hypotheses, nor to substantiate a theoretical perspective. Instead, it is justified by its heuristic qualities and its implications for policy decisions. The present research meets both of these criteria. The genuine dearth of available research on the split-sentence or shock probation indicates that little is known regarding either its effectiveness or its administration. Social scientists, as well as policy-makers in the legislature, judiciary, and corrections, are currently making decisions which may drastically effect the lives of many individuals, while fixing the direction of rehabilitation and corrections for years to come. These decisions are being made without the benefit of empirical data and, as a result, can have only questionable validity. One of the purposes of this research is to help generate further investigation, research, and theoretical formulations relating to the administration of justice and the effectiveness of penal sanctions in meeting the articulated goals of the justice system.

The data compiled in this study were not subject to high level statistical tests, since most of the variables are non-continuous. Considering this factor, the descriptive presentation of the data in the following section seeks to disclose (1) the characteristics of those persons granted shock probation; (2) the differences or similarities between those persons who are granted regular probation and those who are granted shock probation; and (3) comparisons between these two groups and those offenders eligible for both probation and shock probation who receive neither and are consequently incarcerated.

The second major presentation describes the judicial applications of shock probation as a sentencing alternative. The focus of this section is on the judicial compliance with statutory and case law limitations which have been placed on the judiciary in the administration of shock probation. The extent to which the judiciary complies with the law may have an effect on further legislative and correctional policy regarding provisions for new sentencing alternatives--an area with far too little available research--is described as it applies to a particular alternative sentencing technique.

The final and most important presentations for the purposes of enlightened policy-making are descriptions of the effectiveness of shock probation as a sentencing alternative and of the variables associated with "success" under shock probation treatment. Clearly, the extent of judicial implementation of shock probation is determined by zealous claims of success³⁹ with little rigorous, empirical evidence to support these conjectures. If the theoretical justifications of the policy makers go unsupported by scientifically conducted research, the value of their decisions becomes questionable. It is hoped that the research findings presented herein will serve as a basis for further evaluation of the effectiveness of shock probation as a sentencing alternative.

The concluding section of this study evaluates the findings and provides suggestions for further research. While it is not the function of descriptive, exploratory studies based on wide-ranging research to provide alternatives to current correctional policy, it is necessary to focus on the crucial findings and to suggest areas for further research.

Who Receives Shock Probation

The county study collected extensive data on the overall characteristics of (1) the group receiving shock probation, (2) those receiving regular probation, and (3) those who have been incarcerated without early release. Since the sample of female shock probationers is far too small (N=7) to draw any conclusions, only the male population is included in the following analysis.

According to the Ohio Judicial Criminal Statistics, the County Court of Common Pleas judges handled 1,864 criminal cases during the sample year. Of these cases 1,640 involved male offenders. Slightly under half of these cases (N = 712) resulted in a conviction. Apart from the 5.3 percent who were given jail or workhouse sentences, fines, or committed to a mental hospital, 44.8 percent of the convicted felons were placed on probation; 8.1 percent were granted shock probation, and 41.6 percent were incarcerated in a state correctional facility. The sample for the county study includes all of the shock probation cases for the sample year (N = 60), 36.0 percent of all regular probation cases (N = 120), and 38.8 percent of all incarcerated cases (N = 120) for the same year.

The analysis tapped four major description categories: (1) demographic and related variables; (2) social status; (3) legal variables; and (4) prior criminal involvement.

Offenders who received regular probation were (1) disproportionately white; (2) may have been any age, but generally were from the ages of 19 to 24; (3) usually of lower-middle to middle socio-economic status; (4) may have completed high school, but generally did not finish the eleventh grade; (5) had low rates of parent or sibling criminality; (6) slightly more likely to be single than married; (7) convicted of fraud, embezzlement, or forgery as often as for property offenses; (8) generally had private rather than court-appointed legal representation; (9) almost always received a recommendation favorable to probation from the probation department; (10) entered pleas of guilty; and (11) generally had no juvenile or adult record, but may have had a record of arrests and jail confinements as an adult.

Offenders who are eligible for probationary status but who were incarcerated without the benefit of early release were (1) disproportionately black; (2) much younger--18 to 20 years old--than those receiving one of the two forms of probation; (3) of lower to lower-middle socio-economic status; (4) may have completed junior high school but were more often junior high or high school drop-outs; (5) had substantially higher rates of parent-sibling criminality than did probationers; (6) much more likely to be single than married (which is clearly a function of age); (7) predominantly convicted of offenses against property; (8) represented by court-appointed attorneys, public defenders, or waived their right to counsel far more often; (9) almost exclusively received recommendations from the probation department which called for imprisonment; (10) entered pleas of guilty upon their arraignment; and (11) generally had an extensive criminal record characterized by juvenile and/or adult incarcerations.

Like offenders receiving regular probation, those who received shock probation were (1) disproportionately white; (2) generally young--22 to 26 years old--but ranged upward to 69 years of age; (3) of slightly higher socio-economic status, generally from middle and upper-middle

class families; (4) usually high school graduates, while many attended college; (5) rarely had parents of siblings with criminal records; (6) as likely to be married as single, but more were divorced than in the other sample populations; (7) more likely to have been convicted for fraud or narcotics violations than for property or personal offenses; (8) usually represented by privately-retained attorneys; (9) generally received a recommendation for incarceration from the probation department; (10) usually entered a plea of guilty; and (11) generally had prior criminal records, but the majority had not previously been confined in an adult correctional institution.

A further analysis and elaboration of these profiles reveals the following:

- (1) While it has been the specified recommendation of the Ohio APA that shock probation be applied to the youthful and naive offender, the average age of those receiving shock probation or regular probation did not differ significantly.
- (2) Blacks were not represented among shock probationers in proportion to their representation in the prison population. Of the total number of cases sampled who were granted shock probation (N = 490), only 19.8 percent (N = 97) of the offenders were black, while 79.2 percent (N = 338) of those released under the statute were white. The state-wide study also found that the only socio-demographic variable which influenced the granting of shock probation to incarcerated felons was the race of the subject. In the county study, the significance of race as a factor in the administration of sentencing alternatives remained when the data were individually controlled for the age of the offender, the prior criminal record of the offender, the nature of the offense and the mandatory minimum sentence to be imposed.
- (3) The occupational prestige of the fathers of the offenders receiving shock probation differed significantly from those of the two comparison samples. Unlike the regular probationers and the incarcerated, the percentage of shock probation cases falling into the lower categories was only 46.2 percent (N = 24), while 33.0 percent (N = 17) of the sample was found in the higher classifications--a percentage significantly higher than those of either the regular probation or the incarcerated subjects. The generally higher level of financial resources of the shock probation sample allowed a significant proportion of this group access to private representation. The data indicated that 68.2 percent (N = 15) of those offenders whose fathers occupation fell within the upper levels of the index were represented by private counsel, while only 48.0 percent (N = 49) of those in the lower levels were represented by a privately retained attorney. Furthermore, of those cases receiving probation 62.2 percent (N = 46) were represented by privately-retained counsel; only 26.2 percent (N = 27) of those represented by private counsel were incarcerated. Combining both regular and shock probation samples, it was found that 73.8 percent

of all those represented privately received some form of probationary status.

- (4) Judges were found to not be following the recommendations of the Ohio APA with regard to offense categories, which recommendations were to deny shock probation to potentially violent offenders and narcotic offenders. 20.0 percent (N = 7) of personal offenders and 44.4 percent (N = 16) of narcotic offenders were granted shock probation. Furthermore, while the APA recommends that shock probation be granted to first offenders, 28.3 percent (N = 17) of those receiving shock probation had previous jail or prison commitments. Yet interviews with 11 of the 15 magistrates represented in the sample found most suggesting that shock probation should be and was used in the case of youthful, naive offenders in order to 1) mitigate harsh mandatory sentences, and 2) impress upon the offender the seriousness of his criminal activities.

While all but one judge concurred that shock probation as it was administered in the county was an extraordinarily effective technique for primary deterrence, informal discussions with several officers of the County Probation Department made it clear that the value of shock probation as a sentencing alternative was only partially congenial to these men. In general, it was felt that shock probation was a "political" rather than a rehabilitative tool as it was employed by the magistrates. It was suggested by more than one officer that shock probation allowed the judges to "look tough" by incarcerating almost half of all convicted felons while later "quietly" releasing a substantial proportion of them on shock probation to satisfy "political obligations." The probation officers (particularly those with longer tenure) tended to take a cynical attitude to any technique designed to rehabilitate the offender. Implicit in the formal statements contained in the presentence reports and in informal discussions with the various officers was the notion that persons convicted of violations of criminal law are qualitatively different from law-abiding citizens. Although never explicitly stated, this principle seemed to apply more consistently to black than to white offenders.

This generalized attitude toward convicted felons is reflected in the rate of recommendation for incarceration. Although employed as practitioners in the field of corrections, the probation officers generally were unenthusiastic about community-based treatment as an alternative to incarceration. Thus, 51.5 percent of the recommendations of the probation department were for incarceration rather than community-based treatment. Even high estimates of the proportion of offenders who are not now amenable to treatment do not approximate the proportion that the probation department would incarcerate. The data seem to suggest that the probation department sees social defense best served by removing the offender with a prior criminal record from the community.

Summary of who receives shock probation

The data suggest that judges are frequently failing to abide by APA recommendations regarding age, offense categories, and previous records in their decisions as to who shall receive shock probation. Indeed it appears that the best predictors of who shall be so treated include the offender's social class position, his race, and his ability to privately retain an attorney.

The Decision-Making Process of Judges

Time limitation violations

As indicated above, consistent data on the date of application for shock probation and the date of hearing were neither available from the probation department nor from the prison files surveyed. However, the amount of time between the date of initial incarceration and the date of release on shock probation does provide a measure of judicial adherence to the statutory limit of 130 days incarceration for shock probationers.

The findings of the state-wide study indicated that in 1970 there were a total of 431 men released on shock probation from the three institutions sampled. Of the men receiving shock probation, 103 (23 percent) were released after the 130 day statutory limit. Those released after the 130 day limit varied in their length of incarceration with nearly half of the 23 percent remaining in prison six months or more before release under the shock probation statute.

TABLE 2

Length of Incarceration for Inmates Released on Shock Probation in Ohio

<u>Time of Release</u>	<u>Number of Cases</u>	<u>Percent of Total</u>
Under 120 days (Legal release)	328	76.1
130-180 days	52	12.1
Over 6 months	5	11.8
TOTALS	431	100.0

The county study found less variation in length of incarceration for those released under the shock probation statute. Of the 60 cases granted shock probation in the County in 1970, 13.3 percent were held in violation of statutory limitations. Of these, only 2 cases (3.3 percent) were held for a period in excess of six months.

TABLE 3

Length of Incarceration for Inmates Released on Shock Probation in the County

<u>Time of Release</u>	<u>Number of Cases</u>	<u>Percent of Total</u>
Under 120 days (Legal release)	52	86.7
130-180 days	6	10.0
Over 6 months	2	3.3
TOTALS	60	100.0

The state-wide study suggested that race was a factor for those remaining after the 130 day limit. Although far more whites received shock probation than blacks, which was due in part to the larger gross number of white inmates (in 1970 the Ohio prison population was approximately 60 percent white and 40 percent black), a significantly larger percentage of the blacks released state-wide under the shock probation statute were released after the 130 day limit.

Thus, in addition to the findings that whites received shock probation significantly more often than their representation in the prison population warranted,⁴⁰ it appeared that race also influenced in some manner the lack of compliance with the statutory limitations in the administration of shock probation. (See Table 4).

The variations by race in judicial compliance with statutory limitations found in the state-wide study were not found in the County data. Of the 13 cases held over the prescribed time limit, only one was black representing 7.7 percent of all blacks released under shock probation. On the other hand, whites--comprising 78.3 percent (N = 47) of all shock probation cases--were held past the legal time limitations in 14.9 percent (N = 7) of the cases. (See Table 5).

TABLE 4
Racial Distribution by Length of
Incarceration in Ohio

Race	Legal Release		Time Violations		Total	
	N	Percent	N	Percent	N	Percent
White	276	79.5	71	20.5	347	100.0
Black	52	61.9	32	38.1	84	100.0

TABLE 5
Racial Distribution by Length of
Incarceration in the County

Race	Legal Release		Time Violations		Total	
	N	Percent	N	Percent	N	Percent
White	40	85.1	7	14.9	47	100.0
Black	12	92.3	1	7.7	13	100.0

Various hypotheses can be suggested to account for this racial imbalance in the distribution of statutory violations found in the statewide study based on time served. Black inmates have lesser access to private legal counsel or are generally less familiar with legal criteria; therefore, they may more frequently apply for shock probation after the 130 day limitation has elapsed, or so near this

limit that the reviewing judge is unable to act upon the motion within the prescribed period of time. On the other hand, it may also be that the members of the state's judiciary feel less constrained or experience less pressure than the judiciary of the County to act upon the petition of a black incarcerated with the same concern as they would on those of other prisoners. However, the available data do not provide sufficient evidence to support or refute any interpretation of this disparity.

It was thought that the racial disparity in the distribution of time violations found in the state-wide study might not have been indicative of any general trend in the judiciary, but rather the result of the sentencing practices of only a few judges. (The Ohio sample of shock probationers were under the jurisdiction of 192 Common Pleas Court judges in 88 Ohio counties). In order to determine the validity of this assumption, the sample of judges was analyzed to determine the distribution of temporal violations. Although some judges did not grant any shock probation after the 130 day limit, no single judge accounted for more than three releases after the time limit had passed, and the majority of judges granting such statutorily invalid releases were responsible for two or less. The findings indicated that while the tendency to release blacks in violation of the time limit was a widely distributed phenomenon, it did not follow any readily discernible pattern.

The Ohio Revised Code classifies criminal acts into the following categories: (1) personal crimes, (2) property crimes, (3) frauds, and (4) narcotics violations. Using these generalized categories, along with juvenile offenses,⁴¹ Table 6 represents the percentages of individuals released under the shock probation statute within and after the 130 day limit by the offense for which they were originally incarcerated. (See Table 6).

The variation by offense type was not statistically significant, as shown in Table 6. If the data could be analyzed on the basis of specific offenses and the circumstances surrounding these offenses rather than by class, it is possible that significant explanatory variables might have been identified. The limitations of the available data, however, preclude such an analysis here.

Table 7 suggests that there was also no significant relationship between the type of offense and the length of incarceration among those persons granted shock probation in the County. Comparing the findings of the county study with the larger statewide study, it was found that not only did the County judges violate time regulations in far fewer instances than their counterparts across the state, but their violations did not reflect the same proportions of violations found in the state study.

If Tables 6 and 7 are each collapsed into crimes of profit (property crimes and frauds), and expressive crimes (juvenile offense,

TABLE 6

Distribution of Offense by
Length of Incarceration in Ohio

Offense	Legal Release		Time Violation		Total	
	N	Percent	N	Percent	N	Percent
Juvenile	15	71.0	6	29.0	21	100.0
Personal	73	72.0	28	28.0	101	100.0
Property	164	80.0	42	20.0	206	100.0
Frauds	23	79.0	6	21.0	29	100.0
Narcotics	56	73.0	21	27.0	77	100.0

TABLE 7

Distribution of Offense by
Length of Incarceration in the County

Offense	Legal Release		Time Violation		Total	
	N	Percent	N	Percent	N	Percent
Juvenile	1	100.0	0	0.0	1	100.0
Personal	6	85.7	1	14.3	7	100.0
Property	13	81.3	3	18.7	16	100.0
Frauds	18	90.0	2	10.0	20	100.0
Narcotics	14	87.5	2	12.5	16	100.0

personal crimes, and narcotics violations), a noticeable difference in the distribution of temporal violations appears at the state level (See Table 8). However, this trend was not supported by the County data (See Table 9). Although differences did appear between the type of crime and the length of incarceration, they were slight. It should be noted that the difference which did appear in the county data was a reversal of the findings of the state study.

TABLE 8

Type of Offense by Length of Incarceration in Ohio

Offense	Legal Release		Time Violation		Total	
	N	Percent	N	Percent	N	Percent
Expressive	144	72.4	55	27.6	199	100.0
Profitable	187	79.6	48	20.4	235	100.0

TABLE 9

Type of Offense by Length of Incarceration in the County

Offense	Legal Release		Time Violation		Total	
	N	Percent	N	Percent	N	Percent
Expressive	21	87.5	3	12.5	24	100.0
Profitable	31	86.1	5	13.9	36	100.0

Other variables used in determining whether a petitioner received shock probation did not appear significant in predicting whether an individual would be released within the time limit, or held for a period which exceeded the limit. These variables included age, marital status, parent-sibling criminality, and prior criminal record. On the other hand, while the type of offense involved was

found to be essentially unrelated to whether an individual received shock probation in both the state study and the county study, it did appear to have a limited effect in the larger study on the likelihood of remaining after the time limit has expired before being released on shock probation.

Judicial requests for institution behavior reports

A major restriction placed on judicial discretionary power is that of considering the prison behavior of the petitioner as a variable in the decision to grant, or not to grant, shock probation. The available data in institutional records did not consistently indicate if, or when, such information was requested by a reviewing judge. However, 24.4 percent (N = 115) of all those cases released under the statute did indicate that such a request had been made. These judicial requests in violation of case law are clearly underrepresented in the available data, and the frequency of such requests is, if anything, greater than the data indicate.

Parenthetically, it should be noted that at least one major Ohio metropolitan county Common Pleas Court requires that a statement of "institutional adjustment" be presented at the hearing for reconsideration of sentence under the shock probation law.

As was the case with the judicial violations of statutory time limitations, no significant difference could be found between the 192 judges sampled. No judge violated this requirement in more than three cases, and most violating judges did not violate this requirement in more than two cases. Furthermore, this distribution was not at all affected by whether the case was heard in a rural or in a metropolitan county.

The variables applied were found to have little explanatory power regarding the distribution among judges for requests of institutional behavior reports and violations of the time limitation. Further study more directly involved with the judicial decision-making process is clearly necessary for a sound determination of factors influencing discretionary judgments at variance with the statutes governing the administration of sentencing alternatives.

Other discretionary applications of shock probation:

As discussed above, the Ohio shock probation statute was specifically designed to allow judges an alternative to placing convicted felons on probation or sentencing them to a correctional facility for an extended period of time. Unfortunately, there have been other violations of both the substance and spirit of the law. In addition to the violations of the 130 day limit, two other substantive violations came to light during both the state and county studies. These

violations were, however, isolated instances occurring with less frequency than the violations previously discussed.

The shock probation law requires that an individual released under its terms be placed under the supervision of the appropriate probation authority of the court granting release. It also specifies that individuals convicted for the non-probation offenses are ineligible for shock probation as well as regular probation. Both of these specifications were found to be violated.

A small number of individuals across the state and in the County were released under the authority of the shock probation statute without being placed on probation, thus making their shock probation release equivalent to a suspension of sentence without supervision. If it was the considered opinion of the judges in these cases that the individuals involved did not require supervision, the use of the shock probation law to effect release, as opposed to simple suspension of sentence after incarceration, is indicative of some degree of misunderstanding of the intended purpose and statutory requirements of shock probation.

In two cases in the state sample it was found that the shock probation release order specified probationable offenses for which the individuals had not been convicted. The original sentence order specified conviction for a non-probationable offense. In both cases the offense for which the individual was released was a probationable offense related to the original offense resulting in incarceration. In one case the prisoner was convicted by a jury of arson (a non-probationable offense), but was released for burning property, a lesser and probationable offense. In the second case, the prisoner had been convicted for assault with intent to rape (a non-probationable offense), but the release order specified assault with intent to rob, a violation falling under the same statutory heading but probationable. Obviously, these cases do not indicate any trend to deliberately violate the law; but, the existence of such discretionary actions at variance with procedural law does provide an interesting focus for future criminal justice research.

Beyond these substantive violations, there were usages of the shock probation law which seemed to contravene the rehabilitative purpose of the law. According to the Ohio Adult Parole Authority,⁴² the purpose of the shock probation law is to provide first offenders the "shock of reformatory or penitentiary life, even for a brief period" which "would be a constant reminder of an experience he would not wish to repeat." It is a "way for the courts to provide community-based treatment for rehabilitatable offenders" which is thought to be more effective than traditional probation without incarceration. The experience in prison, coupled with the belief of the prisoner that he would have to spend a significant period of time in prison, was the crucial element which would increase the rehabilitative potential of probation, according to proponents of the law.

The rehabilitative potential of an unexpectedly short term of incarceration, however, was nullified in several cases in the state study by the inclusion in the original sentence of the intention of the judge to grant shock probation. Thus, the convicted felon knew at the time he was committed to a prison facility that he would be released shortly and placed on probation. This would seem to eliminate the real "shock" value intended in the law. In several other cases found in both the state and county studies, convicted felons were released under the authority of the shock probation statute, not to be provided with a "community-based treatment" program, but to be reincarcerated in another state or federal prison for offenses committed in those jurisdictions. In the County an alien was sentenced to a correctional institution only for as long as it would take for extradition papers to be prepared by the federal government. This subject was released under the shock probation law and deported.

While transfers of prisoners and even extradition are both legitimate and relatively common, release under the shock probation law solely for reincarceration in another jurisdiction or for deportation is clearly not in accord with the spirit of the law. Such application of the law seems to violate the legislative intention and alters the law from a rehabilitative measure to a means to achieve other organizational goals.

Summary of the decision-making process

The discussion presented in this section demonstrates that judicial discretion as it is applied to shock probation is at variance with procedural law in more than an insignificant number of cases. The statewide study found that in 74 cases (17 percent of the sample) the procedural requirement governing time of release was violated. Thus, at least 17 percent of the statewide sample released under the shock probation statute were released in violation of procedural requirements governing the administration of this sentencing alternative.

In 8 cases (13.3 percent of the sample) in the County there was violation of the procedural requirements governing time of release. There was no deliberate effort, however, on the part of any or all of the magistrates in the sample to abuse the rights of the offender by violating procedural law.

The statewide study also found that in 24.4 percent (N = 115) of its cases, judicial requests were made for institutional behavior reports, in violation of case law. As was the case with the judicial violations of statutory time limitations, no significant difference could be found between the 192 judges sampled.

The findings of both the state and county studies do not necessarily indicate that the judiciary is remiss in its administration of sentencing alternatives; but it does demonstrate that there is a lack of integration and communication between the legislative and the

judicial branches of government where the creation and administration of penal sanctions is involved. This lack of integration results in a diminution of both justice and rehabilitation. An effective program of crime reduction should be capable of meeting both these criteria, and this cannot be done without a clear integration of and adherence to both principles.

The Effectiveness of Shock Probation

The statewide study

The statewide study of effectiveness utilized both the 1966 and 1970 samples of both men and women. Institutional case records were examined; all data relating to background characteristics, offense, prior record, institutional behavior, and so on were recorded for both the sample of shock probationers and the institutionalized controls. In addition, for each case evidence of "current status" was recorded indicating whether the individual was currently on parole, on probation, successfully completed probation or parole, or failed and reincarcerated.

The effectiveness of the shock probation procedure is somewhat difficult to ascertain, particularly since at the time of the study, 87 percent of the males and 90 percent of the females released during 1970 are currently on probation. Therefore, data regarding the outcome, or more specifically, rearrest or reincarceration is known for only about 13 percent of the 1970 males and 10 percent of the females. Data are available for all 1966 releasees, but the total number of cases is very small.

The measure of success or failure used in this study was whether the individual was rearrested for an offense and returned to the institution or rearrested and declared a probation violator and not returned. While we provided for the possibility of rearrest without incarceration, no such cases were found in our sample.

Table 10 shows the distribution of shock probation success and failure cases for males and females for both years. For those released in 1966, success is approximately 85 percent. This figure is close to, but slightly lower than, the official estimate of 90.2 percent issued by the Adult Parole Authority* or the 91.1 percent figure previously published.⁴³ (See Table 10).

No conclusion can be reached regarding the 1970 releasees, although

*We are grateful to Mr. James H. Calhoun, Ohio Adult Parole Authority, for providing us with this data. It should be noted, however, that the data provided is based upon voluntary reporting of the various probation departments in the 88 counties of Ohio and the exact nature of their accuracy is unknown to us.

TABLE 10

Present Disposition of Shock Probation
Cases for 1966 and 1970, Males and Females

Sex and Year	Currently on Probation		Successes		Failures		Total	
	N	Percent	N	Percent	N	Percent	N	Percent
Males, 1966	0	--	46	85.2	8	14.8	54	100.0
Females, 1966	0	--	6	85.7	1	14.3	7	100.0
Males, 1970	385	87.3	12	2.7	44	10.0	441	100.0
Females, 1970	40	90.9	1	2.3	3	6.8	44	100.0
Total	425	77.8	65	11.9	56	10.3	546	100.0

10 percent of the males have already been determined to have failed and only 2.7 percent have been classified as successes and released from supervision. The figures for the females are 6.8 and 2.3 percent respectively. Previous outcome studies indicate that approximately 60% of the parolees failing on parole do so in the first 6 months after release.

Because of the small sample size over the two years studied, and because the relative difference in rates of success and failure for males and females is negligible, to facilitate analysis all successes and failures for both years were combined in order to determine what characteristics appeared to be related to success or failure. Subsequent control for both years of the sample and sex demonstrated no significant difference.

The county study

The county study made comparisons between those persons receiving regular probation and those granted early release from incarceration under the shock probation statute. However, the incarcerated sampled is not used since 40.0 percent (N = 48) of the sample was still incarcerated when the data for this study were collected. Similarly, it was difficult to ascertain the status of parolees through the available data sources. In 1972, the time when the data were collected, many of the offenders incarcerated in 1970 who had been paroled had been released from the various institutions for only a short period

of time, and as a result an analysis of recidivism among this sample would be inappropriate.

The period of probation to which an offender was ordered after being "shocked" by the institution varied from one to five years. Similar sentences were imposed upon those who received probation in their original sentence. Due to the fact, then, that many of the cases sampled were still on probationary status, failure was determined by whether or not an individual was declared in violation of his probation for (1) technical reason, (2) committing a new offense, or (3) absconding while on probation. For any one of these infractions of the rules of the court which are imposed upon probationers, the individual could have had his status revoked and been returned to the correctional facility. Failures also included any subsequent arrest or conviction following the "successful" completion of probation.

Success, on the other hand, was defined as (1) continuing on probation without a violation of restrictions serious enough to place the offender in an institution; or (2) successfully completing shock or regular probation with no indication that a subsequent arrest of the offender had been made. Those marginal individuals who had their original period of probation extended were considered successes since their infractions of the rules were minor. Usually probation was extended in cases where the offender was delinquent in his payment of court costs.

The claims of success for shock probation were not supported by the data gathered in the county study. As Table 11 indicates, 26.7 percent (N = 16) of those offenders granted shock probation were found to be failures. On the other hand, of those granted regular probation only 16.7 percent (N = 20) were not successful.

TABLE 11
Disposition and Success and Failure

	Success		Failure		Total	
	N	Percent	N	Percent	N	Percent
Regular Probation	99	82.5	20	16.7	119	99.2*
Shock Probation	44	73.3	16	26.7	60	100.0

*One case committed to a state mental hospital.

Variables Associated With "Success" Under Shock Probation Treatment

The Statewide Study

Those variables related to successful completion of probation after a period of short-term incarceration are in most cases the same variables associated with successful completion of regular parole.⁴⁴ Age and personal background characteristics appear to differentiate between the groups better than most other variables (see Table 12). Clearly, the older a person is when incarcerated, the better his chances are of falling into the success category; 73.8 percent of all successes were over 20 at the time of their commitment. As a point of contrast, of all persons under 17 at the time of penal commitment, only 10.0 percent (N=1) succeeded whereas, 73.7 percent of those over 25 (N=14) succeeded. Statistically, the relationship between age and success was significant at the .02 level.

TABLE 12

Success or Failure on Shock Probation
By Age At Penal Commitment

Success-Failure	<17		18-19		20-21		22-24		25+		Total	
	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent
Successes	1	10.0	16	47.1	20	62.5	14	56.0	14	73.7	65	54.2
Failures	9	90.0	18	52.9	12	37.5	11	44.0	5	26.3	55 ^a	45.8
Total	10	100.0	34	100.0	32	100.0	25	100.0	19	100.0	120	100.0

^aAge at commitment was unknown for one subject.
 $\chi^2 = 12.394$ $p = < .02$
 Coefficient of Contingency = .31

In addition to the age of the offender, other personal conditions appear to affect subsequent reincarceration. For example, the presence or absence of a previous police record by another member of the offender's family was significant at the .02 level. Regarding parent or sibling criminality, some 76.8 percent (N=43) of the successes had no other member of their family with known police records. Of those who did have a family member in trouble, only 37.1 percent (N=13) succeeded.

Regarding the individual's own criminality, the greatest percentage of successes had no known juvenile record and had only one or two prior misdemeanor or felony convictions as an adult.* What is important here is to note that having

*Given the institutional records used and the discrepancy between states regarding offense classification, it was not possible to distinguish between felony and misdemeanor cases.

had no prior record was not a guarantee of success. This is perhaps due to the selectivity process involved in issuing a shock probation order by the court. Since shock probation is not a first offender act, only 9.2 percent of all shock cases studied had no known prior record; of those for which outcome was known (N=11), only 18.2 percent successfully completed probation. On the other hand, 68.7 percent of those with a larger number of priors succeeded (see Table 13). In this sense, shock probation seems to be most effective for those who have had some previous altercation with the law, but have not become part of the "serious" criminal element.

TABLE 13

Success or Failure on Shock Probation
By Prior Adult Arrests

Success-Failure	None		1-2		3-5		6+		Total	
	N	Percent	N	Percent	N	Percent	N	Percent	N	Percent
Successes	2	18.2	46	68.7	10	41.7	7	38.9	65	54.2
Failures	9	81.8	21	31.3	14	58.3	11	61.1	55 ^a	45.8
Total	11	100.0	67	100.0	24	100.0	18	100.0	120	100.0

^aPrior adult arrest record was unknown for one subject.
 $\chi^2 = 14.607$ $p = < .01$
 Coefficient of Contingency = .33

Finally, success was most often found among those who had some outside attachments or commitments which created demands for non-criminal behavior. Those, for example, who were married and had dependents were more likely to succeed than the single, unattached offender. Marital status was significant at the .01 level and most significant for the 22-24 year old group. Some 73.7 percent (N=28) of the married group succeeded where 45.1 percent (N=37) of the single group succeeded. Single included the never married, widowed, and divorced. No linear relationship was found between the number of dependents and success, but rather, success was most probable for those with 1-3 dependents. Those with less and those with more were more likely to fail. This indicates, along with marital status, that external commitments may generate a sense of responsibility or other commitments to conformity. If the number of dependents is low, there appears to be little such impact; when they are high, the burden may be too much. More research is needed in this area to determine the most functional amount of commitment necessary to impede rearrest.

Offense did not prove to be a significant variable relative to success except for violations of the state narcotic laws. The difference was not significant statistically, however. Only 38.5 percent of those convicted of narcotic violations were in the success category; 50-60 percent successes were recorded for personal, property, or fraud violators. No explanation can

be offered, but such a finding may reflect the nature of the narcotic violator as different from "traditional" offenders -- the nature of the subculture to which he returns, the temptations to recommit his act, and the relative ineffectiveness of conventional imprisonment in the treatment of this offender.

Finally, it should be noted that a number of variables were tested which showed little or no difference between the successes and failures. Variables such as race, social class, father's occupation or education, I.Q., legal residence, or previous employment were of little value in distinguishing between the groups.

The county study

In contrast to the statewide study, the county study compared those receiving regular probation with those receiving shock probation. The variables associated with success on shock probation were similar in many instances to the statewide study, though some significant differences did emerge.

Those offenders most likely to receive shock probation were 23 or 24 years old. Table 14 shows that 35.0 of these offenders violated probation and were returned to the institution. Those offenders between the ages of 18 and 22 failed to complete probation in 20.0 percent (N=4) of the cases, and of those older than 24 years, 25.0 percent (N=5) were unsuccessful on probation following incarceration. The highest success rates by age were clearly found among the youthful offenders in the age group of 18 to 22 years. However, it was this group which most often was incarcerated without the benefit of early release.

Offenders granted regular probation were more likely to succeed if they were very young or over 30 years old. (See Table 15). For those between the ages of 21 and 30, over 22 percent did not complete the specified period of probation. However, 87.5 percent (N=35) of those in the 18 to 20 age group and 88.5 percent (N=23) of those over 30 years succeeded on probation. Although the use of probation as a penal sanction did not vary significantly by age, there was more of a tendency for judges to grant probation to those persons between the ages of 21 and 30 than to older or younger groups. This age group, however, had a higher failure rate on probation than the older or the younger offenders. It was found that 22.6 percent (N=12) of this group did not succeed on probation. Thus, as with shock probation, the age group most likely to be granted regular probation is the same group least likely to complete probation successfully.

While the county study found no significant differences between the two probation groups concerning the presence or absence of a criminal record among the parents or siblings of the offender, some effect on outcome was noted. With a slightly lower success rate for shock probation generally, those offenders with criminal patterns present in their family succeeded in 78.6 percent (N=11) of the cases. However, among those with no indication of criminality in the family, only 74.4 percent (N=29) succeeded. While this difference is not significant, it is the opposite of what the statewide study found with regard to shock

TABLE 14
Success and Failure on Shock Probation by Age of Offender

Row Pct. Col. Pct. Count	18-20	21-22	23-24	25-26	27-30	31-35	36-40	41-69	N	Percent
Success	15.9 87.5 7	20.5 75.0 9	29.5 65.0 13	9.1 66.7 4	9.1 100.0 4	9.1 66.7 4	4.5 100.0 2	2.3 50.0 1	44	100.0
Failure	6.3 12.5 1	18.7 25.0 3	43.7 35.0 7	12.5 33.3 2	0.0 0.0 0	12.5 33.3 2	0.0 0.0 0	6.3 50.0 1	16	100.0
Total: N	8	12	20	6	4	6	2	2	60	
Percent	13.4	20.0	33.3	10.0	6.7	10.0	3.3	3.3		100.0

TABLE 15

Success and Failure on Regular Probation by Age of Offender

Row Pct. Col. Pct. Count	Age Group							Total		
	18-20	21-22	23-24	25-26	27-30	31-35	36-40	41-69	N	Percent
Success	35.4 87.5 35	12.1 70.6 12	9.1 81.8 9	9.1 75.0 9	11.1 84.6 11	8.1 80.0 8	4.0 80.0 4	11.1 100.0 11	99	100.0
Failure	25.0 12.5 5	25.0 29.4 5	10.0 18.2 2	15.0 25.0 3	10.0 15.4 2	10.0 20.0 2	5.0 20.0 1	0.0 0.0 0	20	100.0
Total: N	40	17	11	12	13	10	5	11	119	
Percent	33.6	14.3	9.2	10.2	10.9	8.4	4.2	9.2		100.0

probationers and of what the county study found with regard to regular probationers (80.0 percent, N=24, with family criminal involvement succeeded compared to 82.5 percent, N=66, with no family involvement).

Regarding the individual's own criminal background, the county study found the greatest success on shock probation among those with no record. High rates were found for those with a juvenile record, those with no record, and those with a prison record. (See Table 16). This finding stands in some contrast to the statewide study. On the other hand, the county study found greater success on regular probation than on shock probation for all categories except juvenile records and prison records; the cases in the last two categories are so small such a comparison may be meaningless. (See Table 17). More specifically, of first offenders, 94.1 percent (N=32) succeeded on regular probation, while only 85.7 percent (N=6) succeeded on shock probation. When shock probation was used for those offenders who had a record of arrests but who had not served time in jail or prison, it was found that 28.6 percent (N=10) failed, while only 14.8 percent (N=4) of the offenders with a similar record failed on regular probation. For those who had a record of incarceration in jail but not prison, 30.8 percent (N=4) failed to complete probation after the shock of imprisonment, while only 23.6 percent (N=9) failed to complete regular probation. Those offenders with a prison record succeeded only slightly more on shock probation (75.0 percent, N=4) than on regular probation (73.3 percent, N=15). It is only with this last group and with the single shock probationer having only a juvenile record that shock probation proved more successful than regular probation.

The county study findings with regard to marital status are similar to the statewide findings. Of the married shock probationers, 86.3 percent (N=19) were successful. Single offenders succeeded in 71.4 percent (N=15) of the cases, while divorced persons on shock probation were successful in only 62.5 percent (N=10) of the cases. The divorced were also the least successful among regular probationers.

As far as the offense itself is concerned, the county study found as did the statewide study that shock probationers convicted of drug-related offenses showed a much higher rate of failure than any of the other categories of offenses, specifically 37.5 percent (N=16). On the other hand, regular probationers convicted of narcotics law violations showed a slightly higher percentage of success than those convicted of non-fraudulent personal and property crime. The category for frauds showed a similar disparity between those granted regular probation and those receiving shock probation. Only 75.0 percent (N=20) of those placed on shock probation succeeded, while 86.4 percent (N=22) of those convicted for the same type of offense and placed on regular probation were successful. Offenses against property showed a less pronounced relationship between success and failure between the samples, while personal offenses were found to be the only category where shock probationers succeeded at a higher rate than regular probationers.

While no relationship was found between the occupation of the offender and success or failure on regular or shock probation, it was found that success rates did vary with the social status of the offender's family. Among the high status shock probation group, 86.7 percent (N=15) were successful, while only 65.7 percent (N=23) of the lower status group succeeded. Similarly, probation was successfully completed in 91.1 percent (N=10) of the high status

TABLE 16

Success and Failure on Shock Probation by Previous Criminal Record*

	No Record	Juv. Record	Arrest Record	Jail Record	Prison Record	Total
Success	13.6 85.7 6	2.2 100.0 1	56.8 71.4 25	20.5 69.2 9	6.8 75.0 3	100.0 44
Failure	6.2 14.3 1	0.0 0.0 0	62.5 28.6 10	25.0 30.8 4	6.2 25.0 1	100.0 16
Total: N	7	1	35	13	4	

*Categories include at least, but not more than, the specified record.

TABLE 17

Success and Failure on Regular Probation by Previous Criminal Record

	No Record	Juv. Record	Arrest Record	Jail Record	Prison Record	Total
Success	32.2 94.1 32	4.1 80.0 4	23.2 85.2 23	29.3 76.3 29	11.1 73.3 11	100.0 99
Failure	10.0 5.9 2	5.0 20.0 1	20.0 14.8 4	45.0 23.6 9	20.0 26.7 4	100.0 20
Total: N	34	5	27	38	15	

regular probation group, but in only 86.2 percent (N=69) of the low status group. These higher status offenders were disproportionately involved with violations of narcotics laws and were not generally committed to "criminal" life styles. Most high status offenders placed on probation or shock probation were able to secure either satisfactory employment or resume student status. Although data were not collected regarding early termination of probationary status, many high status offenders were not required to remain under supervision for the period of probation originally mandated by the court.

The overall level of educational attainment was found to be lower among regular probationers than among shock probationers. Education, however, did not prove to be significant in predicting whether an offender failed or succeeded on probationary status. Differences were found between the samples, however, on race. Unlike the statewide study, the county study found fewer blacks to have violated shock probation than whites; the obverse was found for regular probation.

The county study also collected data regarding probation department recommendations. In 91.4 percent (N=81) of those cases recommended to be placed under probationary supervision, the offenders succeeded on probation; while of those cases which were placed on regular or shock probation wherein the recommendation had been for incarceration, only 64.9 percent (N=37) were found to be successes.

Recommendations were not as accurate in those cases where shock probation was suggested. In those cases where shock probation was thought to be the appropriate penal sanction, over half (54.5 percent) failed to complete the period of probation which followed incarceration. On the other hand, all of those cases recommended for shock but granted regular probation were successful.

This disparity in the failure of the various probation officers to predict the outcome of shock probation and the high level of accuracy in predictions where probation was recommended can be attributed to the general lack of understanding of the effects of this relatively new technique among the probation officers.

Although there were no significant differences found between the two samples, those experiencing incarceration failed to complete probation at a much higher rate than those placed on regular probation. Indeed, the success rate for those recommended for incarceration yet granted shock probation was substantially higher than for those recommended and granted shock probation.

There is little reason to believe that offenders are unaware of the potential for the implementation of a specific penal sanction in their particular case. It follows, then, that shock probation might be a more successful technique for serious recidivists than for the first offender. A serious recidivist expects to be incarcerated. If released, such an offender may be "shocked" by the grace of court and consciously attempt to move away from criminal behavior patterns. Although based on an unlikely hypothesis, the effects of early release on those who have absolutely no reason to believe such a course of action would be followed is a fertile area for further research.

The county study also collected data on the role of attorneys in probation. The available data for shock probationers indicated that those persons in the

sample able to afford private representation fail at a slightly lower rate than those with public counsel. Offenders placed on regular probation, however, failed at almost exactly the same rate with privately-retained as with court-appointed counsel.

Summary of county study and comparison with state study

Aside from the fact that shock probation was found in the county study to be a less effective sentencing technique than probation when controlled for demographic, socio-economic, legal, and criminalistic variables, certain summary generalizations may be made concerning the successes and failures in both of the sample populations. Those offenders granted regular probation and who were considered successful generally (1) were under 20 and over 30 years old; (2) were slightly more often white than black; (3) were more often single as opposed to married or divorced; (4) were from the lower, the upper-middle, and the upper socio-economic classes; (5) had high levels of educational attainment; (6) had no parent or sibling criminality; (7) were convicted of fraud or narcotics law violations; (8) were recommended for probation by the probation department; (9) were represented by public counsel as often as by private; and (10) had no prior criminal record.

Those offenders who failed to complete regular probation generally (1) were over 20 but under 30 years of age; (2) were more often black than white; (3) were single but were as often divorced; (4) were from lower-middle class families; (5) were high school drop-outs; (6) had no parent or sibling criminality; (7) were convicted of personal and property offenses; (8) were recommended for incarceration by the probation department; (9) were represented by private counsel as often as by court-appointed attorneys; and (10) had a record of incarceration in jails or prisons.

Those offenders granted shock probation who were considered successful generally (1) were between the ages of 18 and 22; (2) were black more often than white; (3) were married; (4) were from lower-middle to upper class; (5) were high school drop-outs; (6) had some parent or sibling criminality; (7) were convicted of personal crimes; (8) were recommended for probation by the probation department; (9) were represented by private counsel; and (10) had no prior criminal record.

Those offenders who were granted shock probation who failed to complete probation generally (1) were 23 or 24 years old; (2) were more often white than black; (3) were found to be single and as often divorced; (4) were of lower socio-economic status; (5) had high levels of educational attainment; (6) had no parent or sibling criminality; (7) were convicted of narcotics-related offenses; (8) were recommended for shock probation by the probation department; (9) were represented by court-appointed attorneys; and (10) had criminal records which included arrests and jail sentences.

When these findings from the county study are compared with those of the statewide study, a number of discrepancies emerge. In contrast to the county study, the statewide study found success on shock probation to be correlated with older age categories, the absence of family criminal involvement, and conviction of one or two adult offenses. In contrast to the statewide study,

the county study found success on shock probation to be slightly higher among blacks and middle-upper social status categories. The two studies agreed that success is higher among the married, and that failure is greater for those convicted of narcotics offenses.

Summary and Conclusions

From the middle of the nineteenth century to the present time the implementation of harsh penal sanctions has been mitigated by the efforts of humanitarian reformers. Social defense through offender rehabilitation has generally replaced retributionist policies: the argument of correctional reformers has been that punishment increases rather than decreases the likelihood that an offender will continue in his criminal behavior patterns. Reformers have also argued that punishment is at best uncivil, and at worst cruel and unusual.

Many treatment programs have been devised to rehabilitate the offender. These include prison-education, job training, work or home furlough, methadone maintenance, group therapy, to mention only a few. Pre-prison treatment programs generally have been linked to probationary supervision. There is little evidence to suggest, however, that any form of treatment or the imposition of any penal sanction serves to reduce recidivism among any group of offenders to any significant degree.

Judges as well as correctional workers may ignore these facts in the service of organizational needs. Once a technique designed to reduce recidivism is introduced into the criminal justice process, a set of bureaucratic organizational structures appear in order to support the program. Disinterested evaluation research investigating new treatment techniques is scarce, and negative evaluations are often shelved in favor of those containing supportive conclusions.

The rhetoric of the reformers has been picked up by their opponents who have become disenchanted with treatment and urge a return to retributionism. This is made clear in the case of the early release from institutional confinement known as shock probation. Arguing that shock probation is a treatment technique which would accomplish primary and secondary deterrence, as well as rehabilitating the offender, proponents urged its implementation.

The data reported above suggest a need to seriously reconsider the philosophy and practice of shock probation. Not the least disconcerting issue to deal with is the fact that while the statewide study found a success rate on shock probation of around 85 percent, the county study consistently demonstrated greater success rates with regular probation than with shock probation, though both fell below 85 percent. Analysis and interpretation are further complicated by the fact that a number of discrepancies exist between the findings of the studies with regard to the variables associated with success on shock probation. Also disturbing is the finding in both studies that the procedural requirement governing time of release has been frequently violated, though less in the county than statewide. The statewide study also found violations of the requirement prohibiting usage of institutional behavior reports in decision making. And finally, the county study found not only that judges were failing to abide by probation status recommendations regarding age offense categories and previous

records, but also that the attainment of shock probation was more dependent on the offender's social class position, his race, and his ability to privately retain an attorney.

The findings and data presented in this study should be considered preliminary, since it was designed as an exploratory, descriptive research. More definitive results would be gained through further research using a more diversified geographic sample. As a result of the present research, comparisons between metropolitan areas in Ohio and, indeed, with other states which have recently adopted shock probation may be made. Longitudinal research examining the long-range results of shock probation on 1970 cohort sampled for this study may also be conducted.

Similarly, further research is necessary to determine more accurately and intensively the process through which the decision to grant shock probation is made. Here, comparative analysis between various jurisdictions would reveal the effects of judicial compliance with both procedural law and correctional norms on the effectiveness of alternative penal sanctions.

Another area for further research is the effect of incarceration, even for a short term, on the perception of the inmate. This period of confinement concomitant with shock probation may not be the crucial variable in determining success or failure in the probationary period. Perhaps the external social, personal, and criminological characteristics combined with specific situational pressures result in behavior which is in violation of law. It is possible, but not likely, that the effects of incarceration may be negligible and that success or failure are a result of the interplay of other variables.

As shock probation is adopted by other states (such as Kentucky) as a sentencing alternative, it should be cautioned that its effectiveness seems to be somewhat limited. The several aspects of its use, implementation, and effectiveness touched on in this exploratory study demand much more detailed empirical analysis and interpretation, particularly as shock probation is experiencing expanded use in several jurisdictions. One recommendation which can be definitively made regarding the operation of shock probation in Ohio is that the Ohio judiciary might be given another opportunity to understand the intent and workings of the statute. Since the new Ohio Revised Code goes into effect basically January 1 of 1974, it is not totally unacceptable to suggest that the planned training sessions for bringing the judiciary and other criminal justice professionals up-to-date on the code might include a section on shock probation. Alternatively, the Legislative Service Commission might wish to assist the Ohio judiciary in coming to an even more adequate understanding of the intent and rules regarding the treatment procedure. Finally, it is not inappropriate to suggest that special seminars be planned and implemented in which shock probation could be explored as a sentencing alternative, much as the Division of Forensic Psychiatry has conducted recent seminars on the "sexual psychopath" statutes.

Research is needed in several areas. First, assuming that there is a shock of confinement, as social scientists and policy evaluators it would be essential to know what shock is occurring (if any), when, and how. This answer can only be obtained by longitudinal research, utilizing a panel design.

In like fashion, a number of questions are arising as to the relative

effectiveness of shock probation. Probation and incarceration followed by parole (and shock parole, in the near future) are treatment techniques which may have differential effects on different types of offenders. In order to ascertain the best mix of treatment modalities with offender type, a probability model will have to be constructed, as well as a meaningful typology of offenders. Comparisons could then be made between treatment modalities, holding level of probability of failure constant, or comparing treatment effects within levels of difficulty ("probability of failure"). Such research would take at least two years to complete, but would be a vital link in our efforts to link effective treatment modalities with offender types. Furthermore, the proposed research has rather pertinent and salient implications for social policy and legislation.

APPENDIX A
SHOCK PROBATION STUDY
INSTITUTIONAL QUESTIONNAIRE

Card One

<u>Code</u>	<u>Column Number</u>	<u>Information and Codes</u>
_____	(1-4)	Respondent Identification Number (to be completed later)
_____	***	Subject's name: _____
_____	(5-10)	Subject's Institutional Number (right justified)
_____	(11)	Institution 1. Chillicothe (CCI) 2. Lebanon (LECI) 3. London (LOCI) 4. Marion (MCI) 5. Ohio Penitentiary (OP) 6. Ohio Reformatory for Women (ORW) 7. Ohio State Reformatory (OSR)
_____	(12-17)	Case Number--Docket Number--for Current Offense (right justified) If other numbers, list: _____
_____	(18-19)	County (consult alphabetized list)
_____	***	Judge's Name: _____
_____	(20-22)	Judge's Code (to be completed later)
_____	(23-24)	Age at Admission

_____	(25-30)	Date of Birth (month/day/year)
_____	(31)	Race 1. White 2. Puerto Rican 3. Mexican-American 4. Black 5. Oriental
_____	(32)	Marital Status 1. Single (S) 2. Divorced (D) 3. Widowed (W) 4. Separated (SEP) 5. Common-law (including simple cohabitation (CL)) 6. Married (M) 9. Unknown
_____	(33-38)	Date of Current Sentence (month/day/year)
_____	(39-44)	Date of Admission to OSR or OP (month/day/year)
_____	(45-50)	Date of Admission to Transfer Institution (if applicable) (month/day/year)
_____	(51-56)	Date of Release--shock, sentence terminated, or parole (if applicable)(month/day/year)
_____	(57-62)	Offense Statute Code--First Listed Offense (enter only digits)
_____	***	First Offense Name: _____
_____	(63-68)	Offense Statute Code--Second Listed Offense, if applicable (enter only digits)
_____	***	Second Offense Name: _____
_____	(69-72)	Original Sentence Period (minimum/maximum)

- _____ (73) Institutional Admission Status
 1. Regular Institutional Commitment
 2. Probation violation - technical
 3. Probation violation New offense: _____
 4. Parole violation - technical
 5. Parole violation New offense: _____
 6. Shock Probation violation - technical
 7. Shock Probation violation New offense: _____
 8. Other: (specify) _____
- _____ (74) Any Outstanding Detainers?
 1. Yes
 2. Yes, but dismissed
 3. No
- *** B.C.I. Number: _____
- _____ (75) Sex
 1. Male
 2. Female
- _____ (76) Sample Year
 6 = 1966
 7 = 1967
 8 = 1968
 9 = 1969
 0 = 1970
 1 = 1971
 2 = 1972
- _____ (77) Sample Identification
 1. Shock probation
 2. Incarcerated
- _____ 011 (78-79) Deck Number
 01. Pink state system card
 02. White shock card
 (for counties used).
 03. County data schedule
 04. Institutional sample schedule

_____ 1 _____

(80) Card Number for This Deck

Card Two

(1-4) Respondent Identification Number (to be completed later)

(5-7) I.Q. (O.P.C.T.) (right justified) Designation other than numerical score: _____

(8-9) Percentile (O.P.C.T.)

(10-11) Education (code exact number of years representing highest grade completed)
 00 = No school
 98 = Ungraded vocational school, etc.
 99 = Unknown

(12) Education (re-coded from Cols. 10-11)
 1. Less than 7 years of school
 2. Junior high school (7-9 grades)
 3. Partial high school (10-11 grades)
 4. High school graduates (12 years in actual numbers)
 5. Partial college (at least one year of college college)
 6. College graduate
 7. Graduate/professional training (graduate degree)
 8. Ungraded vocational training
 9. Unknown

(13-15) Tested Educational Achievement--S.A.F. (right justified) (enter only digits of the score)

- _____ (16) Legal Residence
 1. Village or small town
 (less than 2,500)
 2. City--2,501-10,000
 3. City--10,001-25,000
 4. S.M.S.A.
 9. Unknown
- _____ (17-18) Age at First Known Juvenile
 Offense (alleged)
 98 = no known record
 99 = unknown
- _____ (19-20) Total Number of Juvenile
 Contacts (code exact number)
 00 = none
- _____ (21-22) Age at First Penal Commitment
 (either juvenile or adult)
- _____ (23-24) Number of Juvenile Institu-
 tionalizations (code exact
 number)
 00 = none
- _____ (25-26) Total Time in Juvenile
 Institutions (calculate total
 number of months)
 00 = none
- _____ (27-28) Total Number of Adult Non-
 Traffic Arrests, Including
 Misdemeanors and Felonies
 (count traffic if drunken-
 driving). Information Deter-
 mined From Social Service
 Summary. (code exact number)
 00 = none
- _____ (29) Total Number of Previous Adult
 Prison Commitments (code
 exact number)
 0 = none
 9 = 9 or more

- _____ (30-32) Total Time Previously Served
 in Adult Prison Institutions
 (calculate total number of
 months--right justify)
 000 = none
- _____ (33-34) Total Number of Jail Commit-
 ments--Adult (code exact
 number)
 00 = none
- _____ (35-37) Total Time Previously Served
 in Jails--Adult (calculate
 total number of months)
 000 = none
- _____ (38) Dependents (code exact number)
 8 = 8 or above
 9 = unknown
- _____ (39-40) Father's Occupation: _____
 (to be coded later)
- _____ (41-42) Father's Education (code exact
 number of years representing
 highest grade completed)
 00 = No school
 98 = Ungraded vocational
 school, etc.
 99 = Unknown
- _____ (43) Father's Education (re-coded
 from Cols. 41-42)
 1. Less than 7 years of
 school
 2. Junior high school
 (7-9 grades)
 3. Partial high school
 (10-11 grades)
 4. High school graduates (12
 years in actual numbers)
 5. Partial college (at
 least 1 year of college)
 6. College graduates
 7. Graduate/professional
 training (graduate
 degree)
 8. Ungraded vocational
 9. Unknown

- _____
 (44) Parent-Sibling Criminality
 1. Yes
 2. No
 9. Unknown - if not stated use this code.
- _____
 (45) Subject's Previous Employment
 1. Yes - has been employed
 2. No - never employed
 9. Unknown
- _____
 (46-47) Subject's Last Known Occupation:
 (to be coded later)
- _____
 (48) Presence of Presentence Report
 1. Yes
 2. No
- _____
 (49) Probation Office Recommendation (if applicable)
 1. For probation
 2. Against probation
 3. For shock probation
 4. Against shock probation
 5. No recommendation made
 9. Unknown
- _____
 (50) Accomplices, if any--co-defendants are to be considered as accomplices (code exact number)
 0 = none
 9 = nine or more
- *** Prosecuting Attorney: Name

- _____
 (51-53) Defense Attorney: Name

- _____
 (54) Defense Attorney
 1. Public
 2. Private
 9. Unknown

- _____
 (55) Initiator of Shock Probation Petition (if known)
 1. Attorney
 2. Inmate
 3. Judge
 4. Relative
 5. Other (specify): _____
 9. Unknown
- _____
 (56) Plea
 1. Guilty
 2. Not guilty
 3. No contest
 9. Unknown
- _____
 (57) Conviction Based on
 1. Grand jury indictment
 2. Prosecution information
 9. Unknown
- _____
 (58) Is There a Judicial Request for an Institutional Behavior Report?
 1. Yes
 2. No
- _____
 (59-60) If Yes, Number of Major Institutional Court Tickets. (code exact number)
- _____
 (61-62) If Yes, Number of Minor Institutional Court Tickets (code exact number)
- _____
 (63-64) Total Number of Court Tickets (total from Cols. 59-60, 61-62)

(65-66)

Present Disposition (for current offense)

01. Currently incarcerated (never released for instant offense)
02. Currently on shock probation
03. Currently on parole
04. Successfully completed shock probation
05. Successfully completed parole
06. Returned to institution- parole violation, technical
07. Returned to institution- parole violation, New offense: _____
08. Returned to institution- shock probation violation, technical
09. Returned to institution- shock probation violation, new offense: _____
10. Died before completing probation or parole

(67-75)

Blank

(76)

Sample year
6 = 1966
7 = 1967
8 = 1968
9 = 1969
0 = 1970
1 = 1971
2 = 1972

(77)

Sample Identification
1. Shock probation
2. Incarcerated

01

(78-79)

Deck Number

01. Pink state system card
02. White shock card (for counties used).
03. County data schedule
04. Institutional sample schedule

2

(80)

Card Number for This Deck

APPENDIX B
SHOCK PROBATION STUDY
PROBATION DEPARTMENT QUESTIONNAIRE

Card One

<u>Code</u>	<u>Column Number</u>	<u>Information and Codes</u>
_____	(1-4)	Respondent Identification Number (to be completed later)
	***	Subject's name: _____
_____	(5-10)	Subject's Probation Department Number (right justified)
_____	(11)	Institution of Shock Release or incarceration 1. Chillicothe (CCI) 2. Lebanon (LECI) 3. London (LOCI) 4. Marion (MCI) 5. Ohio Penitentiary (OP) 6. Ohio Reformatory for Women (ORW) 7. Ohio State Reformatory (OSR)
_____	(12-17)	Case Number--Docket number--for Current offense (right justified) If other numbers, list: _____
_____ <u>25</u> _____	(18-19)	County (consult alphabetized list)
	***	Judge's Name: _____
_____	(20-22)	Judge's Code (to be completed later)

_____	(23-24)	Age at Admission
_____	(25-30)	Date of Birth (month/day/year)
_____	(31)	Race 1. White 2. Puerto Rican 3. Mexican-American 4. Black 5. Oriental
_____	(32)	Marital Status 1. Single (S) 2. Divorced (D) 3. Widowed (W) 4. Separated (SEP) 5. Common-law (includes simple cohabitation) (CL) 6. Married (M) 9. Unknown
_____	(33-38)	Date of Current Sentence (month/day/year)
_____	(39-44)	Date of Admission to OSR or OP (month/day/year)
_____	(45-50)	Date of Admission to Transfer Institution (if applicable) (month/day/year)
_____	(51-56)	Date of Release--shock, sentence terminated, or termination of probation (if applicable) (month/day/year)
_____	(57-62)	Offense Statute Code--First Listed Offense (enter only digits)
	***	First Offense Name: _____

_____ (63-68) Offense Statute Code - Second Listed Offense
 *** Second Offense Name: _____
 _____ (69-72) Original Sentence Period (minimum/maximum)
 _____ (73) Institutional Admission Status
 1. Regular Institutional Commitment
 2. Probation violation - technical
 3. Probation violation New offense: _____
 4. Parole violation - technical
 5. Parole violation New offense: _____
 6. Shock probation violation - technical
 7. Shock probation violation New offense: _____
 8. Other: (specify) _____
 _____ (74) Any Outstanding Detainers?
 1. Yes
 2. Yes, but dismissed
 3. No
 *** B.C.I. Number: _____
 _____ (75) Sex
 1. Male
 2. Female
 _____ 0 _____ (76) Sample year
 _____ (77) Sample Identification
 1. Shock probation
 2. Incarcerated
 3. Regular probation

_____ 05 _____ (78-79) Deck Number
 01. Pink state system card
 02. White shock card (for counties used).
 03. County data schedule
 04. Institutional sample schedule
 05. County probation department data.
 _____ 1 _____ (80) Card Number for This Deck
 _____ Card Two
 _____ (1-4) Respondent Identification Number (to be completed later)
 _____ (5-7) I.Q. (O.P.C.T.) (right justified) Designation other than numerical score: _____
 _____ (8-9) Percentile (O.P.C.T.)
 _____ (10-11) Education (code exact number of years representing highest grade completed)
 00 = No school
 98 = Ungraded vocational school, etc.
 99 = Unknown
 _____ (12) Education (re-coded from Cols. 10-11)
 1. Less than 7 years of school
 2. Junior high school (7-9 grades)
 3. Partial high school (10-11 grades)
 4. High school graduates (12 years in actual numbers)
 5. Partial college (at least one year of college)
 6. College graduate

- 7. Graduate/professional training (graduate degree)
- 8. Ungraded vocational training
- 9. Unknown

 (13-15) Tested Educational Achievement--S.A.F. (right justified) (enter only digits of the score)

 (16) Legal Residence
 1. Village or small town (less than 2,500)
 2. City--2,501-10,000
 3. City--10,001-25,000
 4. S.M.S.A.
 9. Unknown

 (17-18) Age at First Known Juvenile Offense (alleged)
 98 = no known record
 99 = unknown

 (19-20) Total Number of Juvenile Contacts (code exact number)
 00 = none

 (21-22) Age at First Penal Commitment (either juvenile or adult)

 (23-24) Number of Juvenile Institutionalizations (code exact number)
 00 = none

 (25-26) Total Time in Juvenile Institutions (calculate total number of months)
 00 = none

 (27-28) Total Number of Adult Non-Traffic Arrests, Including Misdemeanors and Felonies. (count traffic if drunken-driving). Information determined from Social Service Summary. (code exact number)
 00 = none

 (29) Total Number of Previous Adult Prison Commitments (code exact number)
 0 = none
 9 = 9 or more

 (30-32) Total Time Previously Served in Adult Prison Institutions (calculate total number of months--right justify)
 000 = none

 (33-34) Total Number of Jail Commitments--Adult (code exact number)
 00 = none

 (35-37) Total Time Previously Served in Jails--Adult (calculate total number of months)
 000 = none

 (38) Dependents (code exact number)
 8 = 8 and above
 0 = unknown

 (39-40) Father's Occupation: _____
 (to be coded later)

 (41-42) Father's Education (code exact number of years representing highest grade completed)
 00 = No school
 98 = ungraded vocational training, etc.
 99 = Unknown

- _____ (43) Father's Education (re-coded from Cols. 41-42)
1. Less than 7 years of school
 2. Junior high school (7-9 grades)
 3. Partial high school (10-11 grades)
 4. High school graduates (12 years in actual numbers)
 5. Partial college (at least one year of college)
 6. College graduate
 7. Graduate/professional training (graduate degree)
 8. Ungraded vocational training, etc.
 9. Unknown
- _____ (44) Parent-Sibling Criminality
1. Yes
 2. No
 3. Unknown - if not stated use this code.
- _____ (45) Subject's Previous Employment
1. Yes - has been employed
 2. No - never employed
 9. Unknown
- _____ (46-47) Subject's Last Known Occupation: _____
(to be coded later)
- _____ (48) Presence of Pre-sentence Report
1. Yes
 2. No

- _____ (49) Probation Office Recommendation (if applicable)
1. For probation
 2. Against probation
 3. For shock probation
 4. Against shock probation
 5. No recommendation
 6. For referral to mental health facility
 9. Unknown
- _____ (50) Accomplices, if any--co-defendants are to be considered as accomplices (code exact number)
- 0 = none
9 = nine or more
- *** Prosecuting Attorney:
Name: _____
- _____ (51-53) Defense Attorney
Name: _____
(to be coded later)
- _____ (54) Defense Attorney
1. Public
 2. Private
 3. Waived right to attorney
 9. Unknown
- _____ (55) Initiator of Shock Probation Petition (if known)
1. Attorney
 2. Inmate
 3. Judge
 4. Relative
 5. Other (specify): _____
 9. Unknown
- _____ (56) Plea
1. Guilty
 2. Not guilty
 3. No contest
 9. Unknown

- _____ (57) Conviction Based on
 1. Grand jury indictment
 2. Prosecution information
 3. Certified to juvenile court
 9. Unknown
- _____ (58) Is There a Judicial Request for an Institutional Behavior Report?
 1. Yes
 2. No
- _____ (59-60) If Yes, Number of Major Institutional Court Tickets. (code exact number)
- _____ (61-62) If Yes, Number of Minor Institutional Court Tickets. (code exact number)
- _____ (63-64) Total Number of Court Tickets (total from Cols. 59-60, 61-62)
- _____ (65-66) Present Disposition (for current offense)
 01. Currently incarcerated (never released for instant offense)
 02. Currently on shock probation
 03. Currently on parole
 04. Successfully completed shock probation
 05. Successfully completed parole
 06. Returned to institution-- parole violation, technical
 07. Returned to institution-- parole violation
 New offense: _____
 08. Returned to institution-- shock probation violation technical
 09. Returned to institution-- shock probation violation
 New offense: _____

- _____ (67) Total Number of Adult Probation Sentences
- _____ (68) Total number of Adult Probation Sentences Successfully Completed
- _____ (69-75) blank
- _____ (76) Sample year
 6 = 1966
 7 = 1967
 8 = 1968
 9 = 1969
 0 = 1970
 1 = 1971
 2 = 1972
- _____ (77) Sample identification
 1. Shock Probation
 2. Incarcerated
 3. Regular Probation
- _____ 05 (78-79) Deck Number
 01. Pink state system card
 02. white shock card (for counties used).
 03. County data schedule
 04. Institutional sample schedule
- _____ 2 (80) Card Number for This Deck

Card Three

- _____ (1-4) Respondent Identification
Number (to be completed later)
- _____ (5-6) Original probation period.
Code, exact number of years;
except code:
8 - less than one year
- _____ (7) Presentence or pre-shock
investigation
1. Yes
2. No
- _____ (8) Pre-shock recommendation
1. For shock probation
2. Against shock probation
3. No specific recommenda-
tion made
9. Unknown
- _____ (9) Pre-sentence investigation
indicates subject's remorse
1. Yes
2. No
3. Not discernible
- _____ (10) Pre-shock investigation
indicates subject's remorse
1. Yes
2. No
3. Not discernible
- _____ (11) Subject's employment record
1. stable
2. high absenteeism
3. frequent dismissal
4. frequent resignations
9. unknown
- _____ (12-78) Blank

_____ (79)

Sample identification
1. Shock probation
2. Incarcerated
3. Regular probation

3 (80)

Card Number for this deck

APPENDIX C

SHOCK PROBATION STUDY

COMMON PLEAS JUDGE'S QUESTIONNAIRE

JUDGE _____ INTERVIEWER _____
DATE _____

1. In passing sentence on a convicted felon what do you consider to be the major factors in determining whether the individual

a) will be placed on probation?

b) will be given a suspended sentence?

c) will be incarcerated?

2. Is the pre-sentence investigation of the probation department usually your only source of information on the individual?

yes _____

no _____

*** If no: What other sources of information do you depend upon in making your decision?

3. Do you generally follow the recommendation of the probation department in pre-sentence reports?

yes _____

no _____

4. Regarding "shock" probation, have you always asked for an evaluation from the probation department in a hearing for reconsideration of sentence?

yes _____

no _____

5. Do you generally follow the recommendation of the probation department regarding "shock" probation?

yes _____

no _____

6. Could you describe the typical individual for which you would consider "shock" probation to be a satisfactory rehabilitative tool?

7. Would you assess the overall effects of shock probation as it has been used in Ohio?

Footnotes

1. David Petersen and Paul Friday. Shock Probation: A New Approach to Crime Control. Paper presented at the 18th Annual Southern Conference on Corrections, Tallahassee, Florida (1973). See also Petersen and Friday, "Shock of Imprisonment: Comparative Analysis of Short-term Incarceration as a Treatment Technique", Canadian Journal of Corrections, Vol. 15, No. 3 (July, 1973), pp. 1-12.
2. Paul Friday, David Petersen, and Harry E. Allen. Shock Probation: A New Approach to Crime Control, Vol. 1, No. 1 (May, 1973), pp. 1-13.
3. Edward Bohlander. Shock Probation: The Use and Effectiveness for Early Release Program as a Sentencing Alternative. Unpublished doctoral dissertation, The Ohio State University, 1973.
4. E. H. Johnson. Crime, Correction, and Society, Dorsey Press, 1968, p. 281.
5. California State Assembly, "Deterrent Effects of Criminal Sanctions," Sacramento, 1968, pp. 31-32.
6. Florida Division of Corrections, "Impact of the Gideon Decisions Upon Crime and Sentencing in Florida: A Study of Recidivism and Socio-cultural Change," 1966.
7. Social Commission on Correctional Manpower and Training, "Perspectives on Correctional Manpower and Training," Washington, 1970, pp. 60-61.
8. D. Dressler, Practice and Theory of Probation and Parole, Columbia University Press, N.Y., 1969, pp. 262-267.
9. R. England, "What is Responsible for Satisfactory Probation and Post-Probation Outcome?", Journal of Criminal Law, Criminology and Police Science, 47, 1957, pp. 667-676.
10. M. G. Caldwell, "Preview of a New Type of Probation Study Made in Alabama", Federal Probation, 15, 1951, 3-12, p. 10.
11. J. M. Master, "The Relation of Judicial Selection to Successful Probation," Federal Probation, 12, 1948, 36-41, p. 40.
12. I. W. Jayne, "The Purpose of the Sentence," NPPA Journal, 2, 1956, 315-319, p. 319; I. R. Kaufman, "Enlightened Sentences Through Improved Technique," Federal Probation, 26, 1962, 3-10, p. 8; R. Hartshorne, "The 1958 Federal Split-Sentence Law," Federal Probation, 23, 1959, 9-12, p. 10.

13. Campbell, W.J., Probation and Parole, Selected Readings, John Wiley, New York, p. 12; Chandler, H.P., "The Future of Federal Probation," Federal Probation, 14, 1950, 41-48, p. 44; Report of the Committee on Probation with Special Reference to Juvenile Delinquency, Federal Probation, 12, 1948, 3-9, p. 6.
14. Barkin, E.N., "Sentencing the Adult Offender," Federal Probation, 26, 1962, 11-16, p. 12.
15. Op.cit, Chandler, p. 44; op cit, Kaufman, p. 8.
16. Chappell, R.A., "Federal Probation Service: It's Growth and Progress", Federal Probation, 11, 1947, 29.34, p. 32; Scudder, K.L., "In Opposition to Probation with a Jail Sentence", Federal Probation, 23, 1959,, 12-17, p. 12; Op.cit, Chandler, p. 44.
17. President's Commission on Law Enforcement and Administration of Justice, 1967, pp. 34-35.
18. Op.cit, Scudder, p. 12, op cit, Chappell, p. 31.
19. European Committee on Crime Problems, "Short-term Methods of Treatment for Young Offenders, Strasbourg, 1967, p.17,18.
20. Christianson, K.O., "Non-Institutional Care of Offenders in Practice: The Danish Experience", International Annals of Criminology, 10, 1971, 283-309, p. 291.
21. Ibid., p. 295.
22. Op. cit., European Committee on Crime Problems, p. 84.
23. Op. cit., Hartshorne, p. 11.
24. Ohio Revised Code 2947.06.0, Ohio Code Supplement (1970), pp. 142.
25. "Shock Probation: A Proven Program of Early Release from Institutional Confinement," Ohio Adult Parole Authority, mimeo, 1971, p. 1.
26. Ibid.
27. Ibid., pp. 3.
28. Op. cit., Ohio Revised Code, p. 142.
29. Op. cit., Ohio Adult Parole Authority, p. 3.
30. Op. cit., Ohio Revised Code, p. 142.

31. Comparing this sample with obviously incomplete data compiled by the Ohio Adult Parole Authority indicates that this study sampled 73.5 percent of those granted shock probation in 1966 and 76.7 percent of those released under this legislation in 1970. The APA was reflecting voluntary reporting by probation officers throughout the State to its fledgling research unit at the time. The APA has no mandate to conduct research on judicial dispositions in Ohio, nor does it have the resources to assume such a dubious task.
32. See Appendix A for the original instrument.
33. The availability of consistent data for this and all subsequent so noted (*) variables was greatly limited; therefore, the generalizability from this data is also reduced.
34. Ohio Bureau of Statistics, 1970 Ohio Judicial Criminal Statistics, (Columbus, Ohio: mimeo), 1972, p. 16.
35. Eligibility under Ohio law prohibits persons convicted of murder, arson, burglary of an inhabited dwelling house, incest, sodomy, rape without consent, assault with intent to rape, or administering poison from being placed on probation or shock probation, (Ohio Revised Code: Section 2951.04).
36. See Appendix B.
37. Of those attorneys not responding, some were not available or had retired or moved, while others refused to provide the information claiming the non-public nature of the data.
38. See Appendix C.
39. Denton, op. cit., p. 9; and Paul C. Friday, et. al., "Shock Probation: A New Approach to Crime Control," Georgia Journal of Corrections.
40. Op. cit., Friday, et. al.
41. Juvenile crimes are unclassified. However, since at the time of this study it was possible for a juvenile in the State of Ohio to be committed to a predominately adult institution, it was also possible for such an individual to receive shock probation.
42. Op. Cit., Denton, et. al., p. 1.
43. County News, "Shock Treatment Revisited", County News, Nov. 1970, 12-14.
44. Op. cit., Dressler; Glaser, D., and V. O'Leary, "Personal Characteristics of Parole Outcome", Washington, 1966, pp. 5-24.

45. Given the institutional records used and the discrepancy between States regarding offense classification, it was not possible to distinguish between felony and misdemeanor cases.

END