

# Federal Probation

Career Issues for Probation Officers ..... *Darrell K. Mills*

Community Service Orders in Federal Probation:  
Perceptions of Probationers and Host  
Agencies ..... *G. Frederick Allen*  
*Harvey Treger*

The Presentence Investigation: An Old Saw  
With New Teeth ..... *Alvin W. Cohn*  
*Michael M. Ferriter*

Considering Victim Impact—The Role of  
..... *Robert C. Wells*

Oriented Restitution Bills:  
Is Total Justice for Victims? ..... *Sudipta Roy*

ing, Treatment, and Revocation:  
w of Program Findings ..... *Gennaro F. Vito*  
*Deborah G. Wilson*  
*Thomas J. Keil*

p Prisons: Components, Evaluations,  
pirical Issues ..... *Doris Layton MacKenzie*

Correctional Officers for  
mental Health Services ..... *Bailus Walker, Jr.*  
*Sanford M. Brown*

Juvenile Justice System: A Model  
orm ..... *Vincent Schiraldi*

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# Federal Probation

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## This Issue in Brief

**Career Issues for Probation Officers.**—Careers offer unique strains and frustrations. This is so for the work of the physician, the teacher—and the probation officer. While a probation officer's work can be interesting and rewarding, it presents a unique set of challenges. The hybrid role of the probation officer—which requires juggling investigative/enforcement tasks with counseling responsibilities—may cause conflict. Author Darrell K. Mills identifies six issues that the probation officer may face during a career. These issues, which have the potential to adversely affect job performance and motivation, require the officer's accommodation or resolution. The author provides strategies for coping with these issues.

**Community Service Orders in Federal Probation: Perceptions of Probationers and Host Agencies.**—To date, efforts to evaluate community service programs have focused on the views of the operators of these programs. An important element in program evaluation—the offenders' perspective—has been overlooked. Authors G. Frederick Allen and Harvey Treger used the theoretical perspectives of rehabilitation, deterrence, desert, and the justice model as the framework for a semi-structured, open-ended questionnaire for reviewing perceptions. The authors interviewed a sample of 73 probationers and program operators in 38 cooperating agencies. Findings revealed that community service is perceived by probationers and host agency operators as primarily a rehabilitative sanction rather than as the punishment that the courts may have intended.

**The Presentence Investigation Report: An Old Saw With New Teeth.**—The presentence investigation report has been tradition-bound in purpose and content almost from its inception well over 100 years ago. Designed to facilitate sentencing decision-making, it has also become utilitarian for a host of secondary users. After an

historical review of the construction of the presentence investigation report, authors Alvin W. Cohn and Michael M. Ferriter propose a new PSI model. It is one which facilitates primary and secondary decision-making, reduces labor intensity, and eliminates any debate over long versus short forms. The authors discuss the use of the model in Montana probation and assess its applicability and impact in criminal justice administration.

**Considering Victim Impact—The Role of Probation.**—Since its inception in a Fresno, California probation department in 1974, the victim

### CONTENTS

Career Issues for Probation Officers .....	126407	Darrell K. Mills 3
Community Service Orders in Federal Probation: Perceptions of Probationers and Host Agencies ...	126408	G. Frederick Allen
		Harvey Treger 8
The Presentence Investigation: An Old Saw With New Teeth .....	126409	Alvin W. Cohn
		Michael M. Ferriter 15
Considering Victim Impact—The Role of Probation .....	126410	Robert C. Wells 26
Offender Oriented Restitution Bills: Bringing Total Justice for Victims? .....	126411	Sudipta Roy 30
Drug Testing, Treatment, and Revocation: A Review of Program Findings .....	126412	Gennaro F. Vito
		Deborah G. Wilson
		Thomas J. Keil 37
Boot Camp Prisons: Components, Evaluations, and Empirical Issues .....	126413	Doris Layton MacKenzie 44
The Training of Correctional Officers for Environmental Health Services .....	126414	Bailus Walker, Jr.
		Sanford M. Brown 53
Hawaii's Juvenile Justice System: A Model for Reform .....	126415	Vincent Schiraldi 58

Departments

News of the Future	63
Looking at the Law	66
Reviews of Professional Periodicals	72
Your Bookshelf on Review	84
It Has Come to Our Attention	91

# Drug Testing, Treatment, and Revocation: A Review of Program Findings

BY GENNARO F. VITO, Ph.D., DEBORAH G. WILSON, Ph.D.,  
AND THOMAS J. KEIL, Ph.D.\*

**C**ONCERN OVER drug abuse and crime committed by drug abusing offenders has resulted in a number of strategies for intervention and treatment. However, "these individuals must first be identified before such intervention can be applied" (National Institute of Justice, 1988, p. 1). The identification of offenders with drug abuse problems is justified for a number of reasons. First, this identification is part of an overall strategy to reduce crime. Drug abuse is highly correlated with frequent criminal activity (Blumstein, 1986; Wish & Johnson, 1986). In addition, identification strategies may be used to place drug abusers in treatment; provide a means of monitoring the availability, extent, and type of drugs present in a community; permit the tracking of especially dangerous or lethal batches of drugs; and can lend information to the process of diagnosis of health problems such as AIDS (Wish, 1986).

A number of techniques exist to identify the drug abuser. These include self report studies, surveys of family members and associates, criminal histories, and urinalysis tests. Of these techniques, urinalysis provides the most objective, accurate, and efficient means of identifying drug users. Urinalysis is also the most cost effective tool to test large numbers of individuals. The primary weakness of this form of identification are the limits posed by the body's metabolic and elimination factors. Some drugs, such as cocaine, may be metabolized in 2 to 3 days. Therefore, the drug test may not indicate substance abuse by the offender when, in fact, such abuse has occurred.

Urinalysis has been utilized regularly and on a

large scale by a number of jurisdictions. For example, in Washington, DC, and New York City, 14,000 arrestees were tested in 1984. Fifty-six percent tested positive. Testing was continued, and by 1986, 75 percent of the arrestees tested positive. In San Diego, the Drug Use Forecasting Program (DUF, sponsored by the National Institute of Justice) revealed that the 364 arrestees tested most frequently abused marijuana, cocaine, and heroin (Pennell & Curtis, 1989). In New York, Smith, Wish, and Jarjoura (1989) discovered that the drug test results were significantly related to pretrial misconduct. A recent report on the DUF program (Wish & O'Neal, 1989, p. 4) reveals that, across the 13 program cities, an average of over 46 percent of the arrestees tested dirty for cocaine and over 17 percent for marijuana.

The purpose of this article is to address the question of how information from a drug testing program for probationers and parolees can aid in the supervision of clients. The research results demonstrate how drug testing data can identify the substance abusing client. They also demonstrate how probation and parole officers use this information both to refer the client for treatment and to send the offender to prison.

In April 1988, the Louisville-Jefferson County Crime Commission made application to the state Justice Cabinet for Federal grant monies (from the Bureau of Justice Assistance) to establish a drug testing/monitoring program in Jefferson County. The population to be tested were felony probationers and parolees. Jefferson County contracted with the Kentucky Corrections Cabinet for direct oversight and administration of the project. In turn, the Kentucky Corrections Cabinet also contracted with Kentucky Substance Abuse Programs, Inc., to conduct the drug tests and provide treatment services for offenders who tested positive.

## *Program Goals and Procedures*

The overall goal of the program was to enhance public safety by establishing a system for the monitoring of controlled substance abuse by felony probationers and parolees. The initial client assessment for entry into this program began with the probation and parole officer at the pre or

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An earlier version of this article was presented at the 1989 Annual Meeting of the Southern Criminal Justice Association in Jacksonville, Florida.

postsentence investigative phase. Officers could recommend program participation on the basis of three criteria:

- Present offense suggests drug use;
- Prior arrest record shows drug usage; and/or
- Offender or community reports current drug involvement.

Upon acceptance of the recommendation by the court or Parole Board, the conditions of the offender's probation or parole must contain provisions for random drug testing. Offenders were referred to Kentucky Substance Abuse Program for a drug test. A probation and parole officer and a KSAP employee of the same gender as the offender witnessed the taking of the urine sample. A "Chain of Custody Form" was completed and signed by the probation and parole officer to:

- Identify the tested offender;
- Certify witnessing of sample taking; and
- Seal and label the sample in the offender's presence.

Similarly, the offender signed two of the security seals and the "Chain of Custody Form."<sup>1</sup> Samples were then sent to the testing lab with the results returned to KSAP. KSAP then forwarded the results to the program coordinator for distribution to the appropriate officer.

Offenders who initially tested positive were automatically entered into the first available KSAP treatment session. After entry into treatment, offenders were periodically retested. If initial tests were negative, the offender did not receive a treatment referral. Even those offenders who passed the test were candidates for retesting.

Thus, the monitoring goal of the program was translated into two objectives: (1) random testing of community supervision clients to determine the percentage of these clients with a drug abuse problem, and (2) random testing of community supervision clients to determine which clients needed treatment and random testing during treatment to ensure compliance with treatment conditions (e.g., no drug usage).

### Research Findings

Here, we focus upon the data analysis results from case files collected during the first year of the project. The total number of files (representing individual offenders on probation or parole) was 860. Some individuals were tested a total of six times but no individual came up "dirty" on a sixth case. The following sections are divided into

different segments based upon the research questions addressed.

**1. What was the pattern of abuse revealed by the drug testing?** The results of this analysis are presented in table 1. Here, it is apparent that the most popular drug abused by the offenders was marijuana (55.9 percent of all "dirty" tests), followed by cocaine (total of 31.2 percent). Coming in a distant third was ethanol (5.5 percent). Since alcohol does not stay in the system very long, this finding probably underestimates the abuse of this drug. The alcohol abuse level is probably much higher. These figures represent the total number of times that each drug appeared in a dirty test from an offender.

TABLE 1. TOTAL NUMBER OF DRUG TESTS (DIRTY) DURING THE FIRST 6-MONTH PERIOD BY TYPE OF DRUG

Drug	Test Number					Total	Pct.
	1	2	3	4	5		
Barbiturates	2	1	0	1	1	5	0.5
Benzodiazepines	12	0	0	0	0	12	1.2
Cocaine	7	1	0	0	0	8	0.7
Cocaine Metabolite	201	82	22	3	6	314	30.5
Codeine	11	3	0	1	0	15	1.5
Darvon	1	1	1	1	0	4	0.4
Demerol	2	0	0	0	0	2	0.2
Dilaudid	3	0	0	1	0	4	0.4
Ethanol	26	16	10	4	1	57	5.5
Marijuana	405	103	42	15	10	575	55.9
Methadone	2	0	0	0	0	2	0.2
Morphine	5	1	0	1	0	7	0.7
Opiates	2	0	0	0	0	2	0.2
Phenylpropa-nolamine	6	2	2	0	0	10	0.9
Quaalude	1	0	0	0	0	1	0.1
Talwin	7	3	1	0	0	11	1.1
TOTALS	693	213	78	27	18	1029	

Table 2 illustrates a different pattern of abuse by examining the number of offenders who failed their drug test on a test by test basis. Here, the number of "dirty" tests declined rather sharply after the first two tests were conducted (from 67.3 to 19.3 to 8.2 percent).

TABLE 2: TOTAL NUMBER OF OFFENDERS DIRTY ON EACH TEST

Test Number	Number	Pct.
One	504	67.3
Two	144	19.3
Three	61	8.2
Four	23	3.1
Five	16	2.1
TOTAL	748	

Table 3 contains yet another facet of the substance abuse patterns in this offender population.

This analysis reveals that a total of 123 offenders came up dirty on more than one of the five tests. Of this group of "multiple abusers," the bulk of the offenders failed two tests (72.4 percent of the total).

TABLE 3: TOTAL NUMBER OF OFFENDERS (DIRTY) BY NUMBER OF TESTS

Offenders "Dirty" On:	Number	Percentage
Any Two Tests	89	72.4
Any Three Tests	24	19.5
Any Four Tests	6	4.9
Any Five Tests	4	3.3
TOTAL	123	

**2. What was the profile of substance abusing offenders?** Here, statistical analysis was conducted (using discriminant function analysis) to determine the variables which predicted the failure in the drug testing program. In each profile, it must be remembered that each attribute represents an independent effect. Therefore, the findings for each variable must be interpreted separately. The profile attributes should not be run together (e.g., black clients on intensive supervision who are cross-addicted). Each of the lists of variables are ordered by strength of each variable.

*Profile: Offenders who failed any test for any type of drug*

This analysis refers to those offenders who came up dirty for any drug on any one of the five tests. First, a racial pattern emerged. Although a roughly equal number of blacks ( $N = 435$ ) and whites ( $N = 423$ ) were referred to the drug testing program, black offenders were more likely to turn up dirty. In fact, the majority of blacks tested failed the test (74 percent) while a slight majority of whites tested (52 percent) passed the test.<sup>2</sup> The racial difference in testing carried over into several aspects of the profiling exercise.

Due to the impact of the race, the sample was subdivided and the profile was reconstructed. White clients who abused both alcohol and drugs, those with previous involvement in substance abuse programs, and those not on intensive supervision were likely to fail their drug test. For blacks, the pattern was somewhat different. Intensive supervision and then a high number of previous alcohol arrests predicted failure of a drug test.

The remaining profiles specify the type of drug which the client was likely to abuse. Here, we focused upon the two drugs which the offenders were most likely to abuse, marijuana and cocaine.

*Profile: Offenders who tested dirty for marijuana*

Here again, the profiles were subdivided by race. Both whites and blacks who abused marijuana were likely to be older. Whites were not likely to be involved in drug sales, were most often on parole, less likely to abuse both drugs and alcohol, and were on intensive supervision. Blacks with previous alcohol arrests were likely to abuse marijuana. A high number of previous alcohol-related arrests, intensive supervision, abuse of either drugs or alcohol (but not both), and no conviction for selling drugs predicted failure.

*Profile: Offenders who tested dirty for cocaine*

Once again, it was necessary to construct different models for whites and blacks. Whites with previous alcohol arrests (rather than previous drug arrests), those who were cross-addicted, those who sold drugs, and probationers were also likely to abuse cocaine. Among blacks, a slightly different picture emerged. Intensive supervision was a factor, the present offense did not involve selling drugs, previous alcohol (not drug) arrests, and past involvement in substance abuse programs were predictors of cocaine abuse.

*Profile: Offenders who failed the test on more than one occasion*

Finally, we constructed profiles of those offenders who were "multiple abusers"—they failed the drug test on at least two occasions. Among whites, clients who were cross-addicted and those who had previous treatment failed more than once. For blacks, intensive supervision and a high number of previous alcohol-related arrests predicted multiple failure of the drug test.

A final word of caution about race as a variable in the substance abuse profiles. These findings do not constitute evidence of racial discrimination in any manner. Approximately equal numbers of black and white offenders were referred for drug testing under the program. The test itself does not discriminate on the basis of race. Since race had such a significant impact upon the probability of failing a drug test, it was necessary to construct models for both blacks and whites. Thus, officers are provided information about both racial groups. The research results support the need for such distinction because different patterns of variables emerged for each racial group. These profiles can be used by probation and parole officers to determine who should be tested in the future under this program.

**3. What was the recidivism rate for those offenders who tested dirty and were re-**



ferred for treatment? The evaluation research design was not primarily constructed to evaluate the effectiveness of KSAP treatment. In fact, the purpose of the drug testing program was to compile data on the rate of substance abuse in the offender population under supervision in Jefferson County. As previously demonstrated, our primary purpose was to construct offender profiles for those persons who failed the drug test. Since persons who failed the urinalysis test were referred to KSAP for treatment, we did follow up their performance on supervision during the program year (July 1, 1988 through June 30, 1989).

At this point, we compare the recidivism rates of those clients who were tested and referred to the Kentucky Substance Abuse Program (KSAP) for treatment. The KSAP group is subdivided into two parts: 1) those clients who completed the program ("Graduates") and 2) those clients who did not complete the program ("Exits"). Here, it is important to note that the probation and parole officers have complete control over entry and removal from KSAP. KSAP officials do not have the ability to throw clients out of the program. KSAP was explicitly designed to give the officers some measure of control over the treatment program and to provide information about client performance in the program. The third group of clients were tested but not referred by the officers to KSAP (Kontrol). Naturally, there is little reason to expect that these three groups would be comparable in a strict sense since they were not constructed through the use of random selection. Therefore, an analysis of the attributes of the three groups was conducted in order to determine if the three groups are comparable. The results of this analysis are presented in Table 4.

In Table 4, nine significant differences were detected between the three groups. First, the most obvious difference was that the Kontrol group had a much lower rate of failure on the drug tests. The Graduates and Exits were much more likely to fail their drug test. This result indicates that the probation/parole officers were referring those clients who failed, rather than those who passed, the drug test for treatment. Second, the Kontrol group had fewer clients on "maximum" supervision. Third, the KSAP groups (especially the Graduates) had a significantly higher percentage of clients who sold drugs. Fourth, the Graduates were more likely to have a family history of substance abuse and have a higher rate of employment at the beginning of supervision. A higher percentage of blacks were

in the Exit group. Finally, the Kontrol group had a higher percentage of clients on shock probation.<sup>3</sup>

The recidivism rates of the three groups were examined. Here, recidivism was operationally defined as reincarceration for a technical violation during a 1-year followup period. These recidivism rates, without controlling for the differences between the groups, are presented in table 5. The Exits had the highest rate of reincarceration (17.5 percent) followed by the Kontrol group (8.7 percent) and the Graduates (3.0 percent).<sup>4</sup>

Although the clients who completed KSAP (Graduates) had the lowest rate, it was also clearly determined that the three groups are not comparable.<sup>5</sup> For these reasons, it was necessary to use a multivariate statistical technique to control for the differences between groups.

With the results of the multivariate (discriminant function) analysis, all of the known differences between the three groups were taken into account. The profile revealed that the Exit group (who left KSAP prior to completion) was most likely to be violated and reincarcerated. In addition, clients on intensive supervision were apt to be violated. Recall that these groups differed significantly on several important variables. In particular, only 3 percent of the Kontrol group failed the drug test compared to over 97 percent of the KSAP groups respectively. Yet, the statistical analysis supports the difference in recidivism rates which favors the Graduate group (those who completed KSAP).

On this basis, two conclusions regarding KSAP involvement and reincarceration are in order. First, probation/parole officers used the drug testing program and KSAP as screening mechanisms to enforce compliance with the requirements of supervision. The officers gave their clients who failed the drug test the opportunity to be treated by KSAP and, when they failed to participate, they were sent to prison. Second, if these clients completed KSAP (Graduates), their recidivism rates were as good (if not better) than those offenders who failed the drug test at a lower rate. In this manner, treatment and enforcement worked hand in hand.

The second profile considers not only the three groups but also whether the client tested dirty for cocaine.<sup>6</sup> Again, the Exit group was most likely to be violated along with those clients who tested dirty for cocaine, were on intensive supervision, had no prior history of involvement in treatment programs, or had a high number of prior drug-



TABLE 4: SIGNIFICANT DIFFERENCES BETWEEN THE GROUPS INVOLVED IN JEFFERSON COUNTY DRUG TESTING PROGRAM: THOSE CLIENTS REFERRED TO THE KENTUCKY SUBSTANCE ABUSE PROGRAM (GRADS & EXITS) VERSUS THOSE WHO WERE NOT (KONTROL)

Type of Group					
Variable	KSAP Graduates	KSAP Exits	Kontrol	X2	C
TEST RESULT					
Dirty	98 (97.0%)	223 (97.4%)	183 (36.2%)	311.51	.521
Clean	3 ( 3.0%)	6 ( 2.6%)	323 (63.8%)		
SUPERVISION LEVEL					
Intensive	23 (22.8%)	73 (33.0%)	169 (33.9%)	58.87	.259
Maximum	29 (28.7%)	62 (28.1%)	76 (15.3%)		
Medium	47 (46.5%)	57 (25.8%)	133 (26.7%)		
Advanced	2 ( 2.0%)	29 (13.1%)	120 (24.1%)		
CLIENT A DRUG SELLER?					
Yes	52 (51.5%)	89 (38.9%)	130 (25.7%)	31.55	.191
No	49 (48.5%)	140 (61.1%)	376 (74.3%)		
FAMILY HISTORY OF SUBSTANCE ABUSE?					
Yes	46 (45.5%)	105 (45.9%)	139 (27.5%)	29.49	.185
No	55 (54.5%)	124 (54.1%)	367 (72.5%)		
EMPLOYED?					
Yes	75 (74.3%)	119 (52.4%)	239 (68.1%)	20.30	.170
No	26 (25.7%)	108 (47.6%)	112 (31.9%)		
RACE					
White	53 (52.5%)	87 (38.0%)	277 (55.0%)	18.41	.147
Black	48 (47.5%)	142 (62.0%)	227 (45.0%)		
TYPE OF RELEASE					
Probation	53 (53.0%)	104 (45.8%)	217 (44.2%)	12.55	.122
Parole	28 (28.0%)	64 (28.2%)	107 (21.8%)		
Shock Probation	19 (19.0%)	59 (26.0%)	167 (34.0%)		

TABLE 5. RECIDIVISM RATES (REINCARCERATION ON A VIOLATION) FOR GROUPS INVOLVED IN THE JEFFERSON COUNTY DRUG TESTING PROGRAM: THOSE CLIENTS REFERRED TO THE KENTUCKY SUBSTANCE ABUSE PROGRAM (GRADS & EXITS) VERSUS THOSE WHO WERE NOT (KONTROL)

<u>Result</u>	<u>Type of Group</u>			
	<u>KSAP Graduates</u>	<u>KSAP Exits</u>	<u>Kontrol</u>	<u>Total</u>
Reincarcerated (8.7%)	3 (3.0%)	40 (17.5%)	30 (5.9%)	73
Not Reincarcerated (91.3%)	98 (97.0%)	189 (82.5%)	476 (94.1%)	763

related offenses.

The final profile presented consists of the variables which predict completion of KSAP. These variables indicate those clients most likely to benefit from KSAP involvement. Here, the multiple abusers (clients who failed more than one test) and those not on intensive supervision were most likely to complete KSAP.

This profile reveals that KSAP is most effective with a hardcore offender group. This finding is also consistent with Rational Choice Theory which states that substance abusing individuals must be ready to change and have, in effect, "hit bottom." It is also consistent with the treatment philosophy of KSAP which features group counseling by former substance abusers and group support. Overall, the findings on the effectiveness of KSAP echo previous studies on the program and indicate the continued success of this program (see Vito 1989a and 1989b).

#### 4. How were the drug testing data used in terms of revocation?

Table 6 presents the relationship between revocation rates and drug test results for those clients who had a revocation hearing but who had no new charges brought against them for a new crime. In other words, their case involved only a violation of the conditions of supervision. This analysis should give some indication of the extent to which the drug test results affected the decision to send the offender to prison.

TABLE 6: REVOCATION RESULTS: HOW THE RESULTS OF THE DRUG TESTING RELATED TO THE DECISION TO REINCARCERATE VIOLATORS

Variable	Revocation Decision		Pct. Revoked*
	Yes	No	
Dirty on Several Tests	12	0	100%
Dirty for Cocaine	27	2	93.1%
Dirty for Marijuana	34	37	91.9%

\*The percent revoked relates to 60 individuals who had a violation hearing but who had no new crimes or other charges involved in the process. Due to the nature of the classification by the type of drug abused, an individual can be a member of different groups (e.g., dirty for marijuana and dirty on several tests).

On the basis of these data, it appears that the drug testing results played a major role in the revocation process. All 12 of the offenders who tested dirty on more than one test were revoked. Over 90 percent of the offenders who tested dirty for either cocaine or marijuana were also reincarcerated. Since these persons did not have a charge for a new offense against them at the

time of the revocation hearing, it seems that the results of the drug test weighed heavily against them.

### Conclusion

Overall, the Jefferson County Drug Testing Program has been successful. In fact, estimation and treatment supplemented each other. Probation and parole officers used drug testing to identify clients for treatment and, if they failed to benefit from the program and continued to abuse drugs (especially cocaine), they were sent to prison. KSAP succeeds with a hardcore offender population, those who are most likely to abuse substances at a high rate.

Drug testing of probationers and parolees can provide vital information to community corrections officials and officers. The goals of estimation (of the level of substance abuse among persons under supervision) and treatment are not necessarily contradictory. As this program clearly demonstrates, the information provided by drug testing and the availability of effective treatment offer valuable tools for probation and parole officers.

### NOTES

<sup>1</sup>Of course, the chain of custody is a significant legal issue in the drug testing of probationers and parolees (see Del Carmen and Sorensen).

<sup>2</sup>The chi square value for this relationship was 61.198 and was significant at beyond the .05 level. The value of the contingency coefficient was .25803.

<sup>3</sup>ANOVA was used to compare the three groups in terms of age, years of education, length of sentence, time served for the present offense, and number of prior drug and alcohol arrests. The analysis revealed that no two groups were significantly different on any of these variables at the .05 significance level.

<sup>4</sup>Here, the obvious criticism of the analysis is that the Exits were removed from KSAP by the officer and the reason for removal, for at least some of the clients, was revocation. According to the program records, the reason for KSAP removal for the 40 Exits who were reincarcerated for a violation was Officer Request (4 cases, 10 percent); Jailed (14; 35 percent); Absconder (8, 20 percent); Violation (11; 27.5 percent); and Dirty Test (1; 2.5 percent, 2 cases or 5 percent were missing). It is also interesting to note that the Exits who were not reincarcerated had similar percentages: 40 or 21.2 percent were classified as violators and 32 or 16.9 percent were classified as absconders. In any event, at the time of their removal from KSAP, the 40 Exit cases who were reincarcerated were not uniformly classified as violators. It appears that a number of the violations occurred after their exit from the program.

<sup>5</sup>Overall, when a violation hearing was held, reincarceration was a result in 91.25 percent of the cases (73/80). This rate was uniform across the three groups: 1) Exits (40/44 = 90.9 percent); 2) Graduates (3/3 = 100 percent); and 3) Kontrol (30/33 = 90.9 percent). Therefore, once a hearing was scheduled, it was likely to lead to incarceration.

<sup>6</sup>The other drug variables (addicts, multiple abusers, mari-

juana) were also considered but they failed to yield a statistically significant result.

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