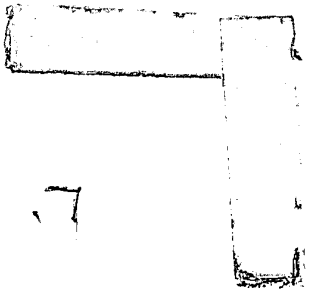


COMMUNITY SERVICE SENTENCING
IN HAWAII: A DESCRIPTIVE STUDY

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The Judiciary, State of Hawaii
 VOLUNTEERS IN PUBLIC SERVICE
 TO THE COURTS

COMMUNITY SERVICE SENTENCING IN
 HAWAII: A DESCRIPTIVE STUDY

U.S. Department of Justice
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SUMMARY

Community service sentencing is a judicial sanction requiring convicted persons to perform a specified number of work hours for public and non-profit private agencies.

MAJOR FINDINGS

1. During the period, June 1, 1978 to May 31, 1979, approximately 700 convicted persons were sentenced to perform community service work in Hawaii. The total number of hours sentenced was 17,837, or the equivalent of 2,230 man-days. The range of hours were: Circuit Court, a low of 7 to a high of 200; Family Court, 3 to 90; District Court, 1 to 150. The violated offenses ran the full spectrum of the Penal Code.
2. Community service sentencing can be used to provide manpower for public service work. However, it does not seem to be an appropriate method for providing employment training opportunities.
3. Community service sentencing adds a new dimension to criminal sentencing. It is positive and productive, with the potential for benefiting both offender and community.
4. Depending on the case, CSS is an appropriate alternative to incarceration. This is true particularly for the indigent offender who faces a jail sentence only because of the inability to pay a fine. CSS can also be used as a sentence in and of itself; however, it will probably be imposed as part of a conditional sentence, e.g., a

sentence of fine or jail suspended on condition that CSS is completed.

5. Judges are generally satisfied with Penal Code coverage of community service sentencing. However, they have indicated a desire for:

- (a) informal written guidelines covering offender selection and sentencing criteria, and for,
- (b) standardized administrative procedures covering post-sentence case processing and follow-up.

Some of the judges also indicated that the issue of liability for the offender, the agency, and the courts needs to be clarified in the statutes.

6. Surveyed offenders expressed generally favorable attitudes toward the sentence, the program, and their experiences. Indications are that CSS has a positive impact on offenders. Whether CSS reduces recidivism is a question beyond the scope of this study.
7. Judges and agency representatives who have utilized CSS referrals expressed favorable attitudes toward program implementation. However, agency representatives indicated a need for more thorough orientation to the program, including information on liability; for increased consultation with court staff; and for improved coordination between agency and court. Judges were critical of follow-up practices, and indicated a need for more feedback to keep informed on CSS outcomes.

I. INTRODUCTION

Pursuant to House Resolution Number 140 of the Ninth Hawaii State Legislature, as amended by Standing Committee Report No. 648-78, the Judiciary has conducted a study on the Community Service Sentencing Program (CSSP). The resolution requested the Judiciary to research the following topics:

- the use of alternative sentencing to require or allow convicted persons to work on public projects;
- the use of community service sentencing as an alternative to incarceration; and
- the impact of private industry.

(A copy of the resolution is contained in the Appendix.)

This report presents study findings pertinent to the first two topics. The third topic was not included in the study because the emphasis in community service sentencing has been on sentencing convicted persons to do work in service to the community. This involves work assignments to public or non-profit private agencies which therefore excludes private industry from the purview of the program.

The study is reported in the following format. The next section outlines the research questions investigated by the study, and the research design utilized to acquire the desired information. The third section contains a description of the Community Service Sentencing Program, while the sections thereafter present the major study findings.

II. RESEARCH QUESTIONS AND STUDY DESIGN

A. RESEARCH QUESTIONS

For the study, the broadly stated topics of the resolution were reformulated into more narrowly defined research issues. In defining these issues, the guiding principle was to include all of the Legislature's concerns on community service sentencing as could be inferred from the resolution. It is felt that the resulting issues, with one exception to be discussed below, do encompass the scope of those concerns.

Once the issues were defined, then specific research questions were developed. The issues, and their respective study questions are:

- Manpower
 - Can community service sentencing be utilized to provide manpower for public service projects?
 - Does community service sentencing provide an opportunity for employment training and the development of work skills?
- Criminal Sentencing
 - How does community service sentencing relate to the traditional alternatives in criminal sentencing?
 - Is community service sentencing a viable sentence in and of itself?
 - Is community service sentencing an appropriate alternative to incarceration?
 - What criteria do judges feel are important when deciding to give community service sentences?
- Legislation
 - Is clarification in the Penal Code needed regarding community service sentencing?

- Should guidelines for community service sentencing be written into law?
- Offender Feedback
 - How did offenders feel when first sentenced?
 - How do offenders view their CSS experience?
 - What impact has CSS had on offenders?
- Program Implementation
 - How do agencies and judges view the processing and follow-up of offenders by court staff?
 - What are the overall impressions of agencies and judges toward the CSS program?
 - What do agencies and judges recommend to improve the program?

B. STUDY DESIGN

Data for the study was collected in two phases. The first phase entailed compiling demographic and related information (e.g. offense, age, sex) on all offenders who were sentenced to community service during the period, June 30, 1978 to May 31, 1979. Area frame for the study is the State of Hawaii (i.e., all judicial circuits) and the jurisdictional frame, all courts (Circuit, Family, District).

The information collected in the first phase thus provides a complete canvass of the CSSP offender population for the June-May period. Also compiled during this phase was a list of all agencies that received CSSP referrals during the study's time frame.

In the second phase, a questionnaire survey was conducted on offenders, judges and agency representatives. Offender names were randomly selected to provide a survey sample of cases.

All judges who were not otherwise indisposed (e.g., on vacation) were personally interviewed to elicit their opinions. And a judgmental sample of agencies that provided a balanced mix of public and private non-profit agencies was used for the agency survey.

Data for the study therefore include demographic information on the population of CSSP offenders, and attitudinal information from survey samples of offenders, judges, and agencies. In the remainder of this report, data from these several sources will be interspersed throughout. To avoid confusion, reference will be made to the specific source when necessary.

C. ISSUE OMITTED FROM THE STUDY

Although every attempt was made to include all of the concerns expressed in the House Resolution, omitted from the study is the issue of recidivism.

Information on recidivism is often thought to be a basic datum for evaluating the effectiveness of sentencing programs. But the collection of reliable and valid information on recidivism is a difficult task. The problem is not solely a matter of conscientious and thorough record-keeping, although that is a major aspect of it. The problem is further compounded by the fact that whether or not a person "recidivates" also depends on whether or not the person is apprehended, and if apprehended, whether or not prosecuted, and if prosecuted, whether or not found guilty. Thus data on recidivism may not be as good a statistic on crime-related phenomena as is sometimes supposed.

An alternative to recidivism data is completion rates, i.e., whether or not a person successfully completes his or her

sentencing program. For effective evaluation, however, information on completion rates should have a time base (be collected over time) and/or a control base (be contrasted with other sentencing programs). However, neither of those could have been collected for the present study because of the magnitude of the task.

But while the information contained in this report does not meet the strict requirements of statistical program evaluation, it can nevertheless be interpreted to provide insights into community service sentencing as it is currently practiced in Hawaii. These insights, moreover, can be validly used to guide legislative and other decision-making on community service sentencing in the absence of hard data on the program.

III. PROGRAM DESCRIPTION

A. GENERAL

A community service sentence requires the convicted offender to perform a specified number of hours "in service to the community." This may involve work assignments to public agencies, such as the City and County of Honolulu, Department of Parks and Recreation, or to non-profit private organizations. (A list of some of these agencies and organizations can be found in the Appendix.)

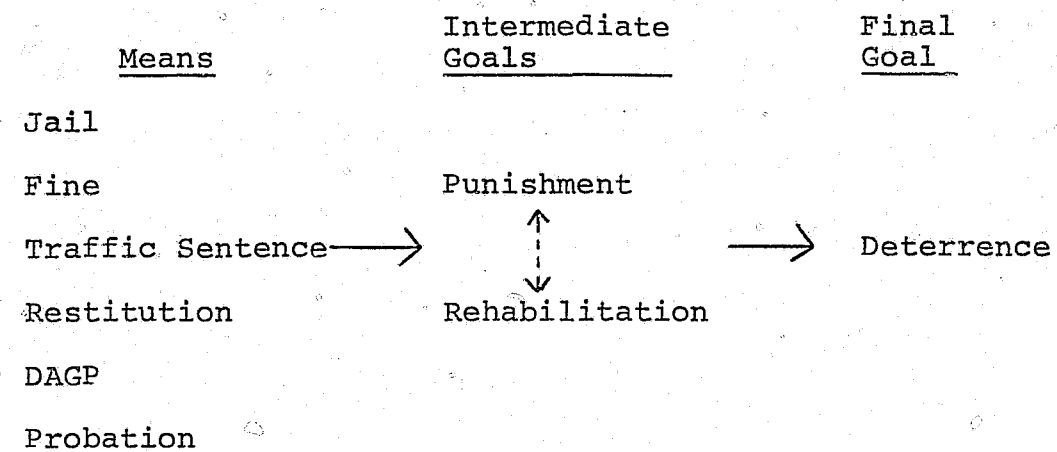
The number of hours sentenced is determined by the judge, who, in some circuits and court levels, is provided recommendations by a probation officer or court counselor in a pre-sentence report.

The type of work varies from litter-picking (the original focus of CSS in Hawaii) to routine maintenance and office/clerical work. In cases involving offenders with backgrounds in the professions or trades, an attempt is made to match background to assignment.

B. CRIMINAL SENTENCING

Community service sentencing provides judges with an additional tool in the disposition of convicted persons. Prior to the use of CSS, judges had at their disposal the sentencing alternatives of jail/prison, fine, restitution, probation, deferred acceptance of guilty plea (DAGP), and in traffic cases, license suspension/revocation and traffic points.

Criminal sentences are meted out to serve several goals. Depending on the individual case and its circumstances, these goals may be: punishment; offender deterrence from committing future crimes; community deterrence from committing crime; offender rehabilitation; community restitution; and community protection. Generally, these goals can be reduced to the following model:



In the model, deterrence is posited as the ultimate goal of sentencing. The expectation of attaining that goal is expressed in sentences which punish and/or rehabilitate. The point of the model is to highlight the fact that criminal sentencing is neither strictly rehabilitative nor purely punitive. These two intermediate goals constitute ends of a continuum in between which are many areas of overlap. Thus it is appropriate that judges have available to them a number of sentencing alternatives in order to dispense the appropriate mix of punishment/rehabilitation which they feel is warranted for each individual case.

C. PROGRAM RATIONALE

The primary intent of community service sentencing is to equalize justice across income lines. It is based on the

assumption that, ceteris paribus, fines and other monetary sentences place more of a burden on the indigent offender than it does on offenders who are more affluent. Moreover, (a) the inability to pay a monetary sentence may necessitate a sentence of jail solely because no appropriate alternative is available, and (b) the ability to pay a monetary sentence may render such sentences ineffective for punishment/rehabilitation and hence the need for a suitable alternative.

One alternative is CSS where (a) indigent offenders can "work off" his or her sentence in lieu of fine or jail, and where (b) more affluent offenders can be made to undergo the inconvenience of serving x-number of hours for public/private agencies rather than having the "easy" way out of simply paying a fine.

A secondary intent of CSS is offender rehabilitation. The assumption here is that through community service work, offenders will be exposed to community needs and problems and will therefore come to more closely identify with the community. This identification, in turn, will be a factor in inhibiting them from committing future violations of community norms (i.e., the law).

A corollary to the secondary intent is that CSS allows certain segments in the community to directly participate in alleviating crime, a shared community problem. In accepting CSS referrals, public and non-profit private agencies become, to a certain extent, criminal rehabilitation programs.

D. STATUTORY STATUS

The following legislative acts, which are now Hawaii law, authorize community service sentencing.

Act 96 adds to Section 706-605 of the Hawaii Revised Statutes the following authority in the disposition of criminal defendants:

To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or under other appropriate supervision, or to perform such services and to probation, as the court may direct, provided that the convicted person who performs such services shall not be deemed to be an employee for any purpose. The extent of services required shall be stated in the judgement. The court shall not sentence the convicted person only to perform such services unless, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it is of the opinion that such services alone suffice for the protection of the public. (Effective May 1978)

Act 220 provides that the Family Court may fine a child for a violation which would be theft in the third degree by shoplifting if committed by an adult, and may require the child to perform public services in lieu of the fine. (Effective June 1978)

Act 202 authorizes the following as part of the sentencing alternatives for shoplifting offenses:

Instead of the statutory mandatory minimum sentence, a defendant not in contumacious default of fine payment, to be ordered to report to (1) the comptroller to clean public buildings; (2) the director of transportation to pick up and remove litter along public highways; or (3) the office of the chairperson of the board of land and natural resources to pick up and remove litter from public parks or to perform services to the community, as the court provides. (Effective June 1979)

E. PROGRAM IMPLEMENTATION

Implementing CSS entails (a) the recruitment of public and non-profit private agencies to accept non-paid offenders for work, and (b) the coordination and follow-up of offender

assignments to ensure compliance (i.e., satisfactory completion of hours sentenced).

Only the First Judicial Circuit has staff specifically assigned to implement the program. The Counseling Service of the First Circuit District Court handles implementation for that court while the two-person staff of the Judiciary's volunteer program, Volunteers in Public Service to the Courts (VIPS), perform the implementation function for the Family and Circuit Court. The VIPS assumed CSS program coordination and implementation in the Circuit Court beginning January 1979 and in the Family Court in August 1979. In the other judicial circuits (Second, Third and Fifth), the respective probation departments carry out program implementation on an ad hoc, as-needed basis.

F. PROGRAM STATISTICS

Table 1 gives a breakdown on the number of offenders sentenced to do community service work during the study period, June 1, 1978 to May 31, 1979.

TABLE 1. NUMBER OF OFFENDERS SENTENCED TO CSSP (6/1/78 - 5/31/79)

| COURT | TOTAL | JUDICIAL CIRCUIT | | | |
|----------|-------|------------------|--------|-------|-------|
| | | FIRST | SECOND | THIRD | FIFTH |
| Circuit | 49 | 15 | 5 | 27 | 2 |
| Family | 102 | 88 | 0 | 14 | 0 |
| District | 548 | 487 | 20 | 41 | 0 |
| Total | 699 | 590 | 25 | 82 | 2 |

Table 2 gives a breakdown on the average hours sentenced, and the number of offenders for each major offense category, while Table 3 gives the frequency of hours sentenced.

TABLE 2. AVERAGE HOURS SENTENCED AND NUMBER OF OFFENDERS BY MAJOR OFFENSE TYPE*

| OFFENSE TYPE | COURT | | | | | |
|-----------------------|----------------|-----|--------|-----|----------------|-----|
| | CIRCUIT | | FAMILY | | DISTRICT | |
| | Hours | No. | Hours | No. | Hours | No. |
| Against Person | 91.7 | 6 | 21.0 | 10 | 35.5 | 23 |
| Against Habitation | 70.0 | 2 | 19.1 | 42 | 19.2 | 8 |
| Against Property | 73.9 | 12 | 17.0 | 32 | 24.2 | 109 |
| Sex and Related | -- | 0 | 40.0 | 1 | 19.3 | 22 |
| Against Public Order | 45.0 | 2 | -- | 0 | 20.5 | 30 |
| Against Public Admin. | -- | 0 | 48.0 | 1 | 35.0 | 3 |
| Against Public Health | 53.7 | 21 | 5.0 | 1 | 21.3 | 23 |
| Traffic | -- | 0 | -- | 0 | 31.9 | 235 |
| Status Offenders | Not Applicable | | 25.2 | 4 | Not Applicable | |
| Other | -- | 0 | 6.0 | 2 | 18.2 | 29 |
| (No data on hours) | | (6) | | (9) | | (5) |
| Total | 65.0 | 49 | 19.0 | 102 | 27.5 | 487 |

*Data in this and the remaining tables in this section is based on the following: Circuit Court, all circuits (n=49); Family Court, 1st and 3rd Circuits (n=102); District Court, 1st Circuit only (n=487).

TABLE 3. FREQUENCY OF HOURS SENTENCED BY COURT LEVEL

| HOURS | TOTAL | COURT | | |
|-----------|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| 1 - 6 | 65 | --- | 13 | 52 |
| 7 - 12 | 136 | 1 | 15 | 120 |
| 13 - 18 | 87 | --- | 4 | 83 |
| 19 - 24 | 83 | --- | 46 | 37 |
| 25 - 30 | 91 | 2 | 10 | 79 |
| 31 - 36 | 15 | --- | --- | 15 |
| 37 - 42 | 20 | 3 | 1 | 16 |
| 43 - 48 | 10 | 1 | 2 | 7 |
| 49 - 54 | 31 | 22 | --- | 9 |
| 60 - 66 | 31 | 1 | 1 | 29 |
| 67 - 72 | 2 | --- | --- | 2 |
| 73 + | 47 | 13 | 1 | 33 |
| (No Data) | (20) | (6) | (9) | (5) |

Remaining tables in this section provide general interest data on the CSS offender population.

TABLE 4. SEX OF OFFENDER BY COURT LEVEL

| SEX | TOTAL | COURT | | |
|-----------|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Male | 524 | 42 | 92 | 390 |
| Female | 113 | 7 | 10 | 96 |
| (No Data) | (1) | | | (1) |

TABLE 5. AGE OF OFFENDER BY COURT LEVEL

| AGE | TOTAL | CIRCUIT | DISTRICT | AGE | FAMILY |
|-----------|-------|---------|----------|-----|--------|
| 13 - 14 | 2 | --- | 2 | | |
| 15 - 17 | 20 | --- | 20 | 10 | 1 |
| 18 - 20 | 105 | 4 | 105 | 11 | 4 |
| 21 - 24 | 152 | 14 | 138 | 12 | 4 |
| 25 - 29 | 111 | 12 | 99 | 13 | 12 |
| 30 - 34 | 54 | 3 | 51 | 14 | 22 |
| 35 - 39 | 34 | 6 | 28 | 15 | 20 |
| 40 - 44 | 15 | 2 | 13 | 16 | 21 |
| 45 - 49 | 8 | --- | 8 | 17 | 17 |
| 50 - 54 | 12 | 3 | 9 | 18 | 1 |
| 55 - 59 | 11 | 3 | 8 | | |
| 60 + | 3 | 2 | 1 | | |
| (No Data) | (5) | --- | (5) | | |

TABLE 6. ETHNIC BACKGROUND OF OFFENDER
BY COURT LEVEL

| ETHNIC BACKGROUND | TOTAL | COURT | | |
|----------------------|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Caucasian | 166 | 15 | 10 | 141 |
| Japanese | 43 | 11 | 5 | 27 |
| Black | 16 | --- | 1 | 15 |
| Chinese | 16 | --- | 2 | 14 |
| Filipino | 30 | 2 | 13 | 15 |
| Hawn - Part Hawn | 182 | 13 | 37 | 132 |
| Korean | 6 | --- | --- | 6 |
| Portuguese | 10 | --- | 3 | 7 |
| Puerto Rican | 11 | 1 | 1 | 9 |
| Samoan | 27 | --- | 6 | 21 |
| Mixed | 69 | 6 | 19 | 44 |
| Others | 20 | --- | --- | 20 |
| (No Data) | (42) | (1) | (5) | (36) |

TABLE 7. OCCUPATION OF OFFENDER
BY COURT LEVEL

| OCCUPATION | TOTAL | COURT | |
|----------------------|-------|---------|----------|
| | | CIRCUIT | DISTRICT |
| Prof - Tech | 29 | 2 | 27 |
| Mgr - Admin | 18 | 6 | 12 |
| Sales | 12 | --- | 12 |
| Clerical | 14 | 4 | 10 |
| Crafts - Trades | 39 | 3 | 36 |
| Operatives | 18 | --- | 18 |
| Transport Operatives | 20 | --- | 20 |
| Laborers | 35 | 12 | 23 |
| Services | 65 | 15 | 50 |
| Military | 7 | 3 | 4 |
| Retired | 5 | --- | 5 |
| Unemployed | 127 | --- | 127 |
| Other | 76 | --- | 76 |
| (No Data) | (71) | (4) | (67) |

IV. MANPOWER QUESTIONS

A. CAN COMMUNITY SERVICE SENTENCING BE UTILIZED TO PROVIDE MANPOWER FOR PUBLIC SERVICE PROJECTS? Yes.

The total number of community service hours offenders were sentenced to during the study period was 17,837.

TABLE 8. NUMBER OF HOURS SENTENCED BY COURT LEVEL

| COURT | TOTAL HOURS | EQUIVALENT MAN-DAYS | AVERAGE HOURS | EQUIVALENT MAN-DAYS |
|----------|-------------|---------------------|---------------|---------------------|
| Circuit | 2795 | 349 | 65 | 8 |
| Family | 1763 | 220 | 19 | 2 |
| District | 13279 | 1660 | 28 | 4 |
| Total | 17837 | 2230 | 29 | 4 |

This translates to 2,230 man-days. The average number of hours per offender is 29, or 4 man-days. In terms of quantity, therefore, community service sentencing can be utilized to provide manpower for public service work.

With respect to quality of work performed, 69% of the 42 agencies that participated in the agency survey rated offender performance as either excellent or good.

TABLE 9. AGENCY RATING OF OFFENDER PERFORMANCE AND TIME INVESTED IN SUPERVISING OFFENDERS

| RATING | NUMBER | % |
|----------------------|--------|--------|
| Offender Performance | | |
| Excellent | 8 | 19.0 % |
| Good | 21 | 50.0 |
| Fair | 8 | 19.0 |
| Poor | 3 | 7.1 |
| No Opinion | 2 | 4.8 |
| Time Invested | | |
| Very Worthwhile | 20 | 47.6 % |
| Somewhat Worthwhile | 15 | 35.7 |
| Not Worthwhile | 5 | 11.9 |
| No Opinion | 2 | 4.8 |

When asked whether the time they invested in supervising the offenders was worthwhile, 48% of the agency respondents answered it was very worthwhile, and 36% answered it was somewhat worthwhile.

Agency representatives were also asked what impact, if any, has the CSS program had on their agency's operations. Fifty-two percent indicated a positive impact.

TABLE 10. IMPACT OF CSSP ON AGENCY OPERATIONS

| IMPACT | NUMBER | % |
|-------------|--------|--------|
| Positive | 22 | 52.4 % |
| Negative | 3 | 7.1 |
| Indifferent | 5 | 11.9 |
| None | 10 | 23.8 |
| No Opinion | 2 | 4.8 |

Examples of positive comments were:

"It does improve our operations for we can cover more ground since we have lots to do but not enough help."

"The court cases help our operations, they don't give us any trouble."

"Basically, they have contributed the needed volunteer hours to do things we couldn't possibly do by ourselves."

"In (Honolulu) C & C Parks, we are short of help. It helps a lot when we get stuck for manpower."

"Very helpful for our operations. I like to think we provide some job skills. We have a number of court volunteers who continue to come."

"It saved the Church money in terms of not having to hire someone to perform work."

"Good learning experience for our staff to realize these people also have needs, that we are helping them as much as they are helping us."

"At least it shows the students, teachers and parents that the courts are doing something and not just slapping them on the wrist."

"Fantastic, we could not afford a person to do the kind of work he's done."

Examples of negative and other comments were:

"Minimal impact. All I did was assign to a supervisor and check the sheets to see if completed."

"It increases labor costs for supervision."

"I don't think it affects us one way or the other."

"All we did was provide a worksite. It didn't hinder or enhance our operations here."

"I don't think we would fall apart without it."

"It's an extra activity that sometimes disrupts operations because of the scheduling of clients."

"Ambivalent, some people do not do any work while others still volunteer in program."

"No impact really. It's really not work...no one breaks his back."

"We have to guard them. They run away from work."

In summary, the finding is that community service sentencing can be used to provide manpower for public service work, in terms of both quantity and quality. Agency impact, at least for the agencies in the survey, has been positive.

B. DOES COMMUNITY SERVICE SENTENCING PROVIDE AN OPPORTUNITY FOR EMPLOYMENT TRAINING AND THE DEVELOPMENT OF WORK SKILLS?
No for adults, potentially for juveniles.

As indicated earlier, the average number of hours sentenced was 29, or slightly less than 4 man-days. This amount of time is somewhat insufficient for anything other than routine work which requires little or no training. Two-thirds of the offenders in the offender survey apparently feel the same way.

TABLE 11. OFFENDER OPINION ON WHETHER WORK EXPERIENCE PROVIDED SKILLS FOR FUTURE EMPLOYMENT

| Did the Work You Did Give You Skills for Future Employment? | TOTAL | COURT | | |
|---|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Yes | 24 | 4 | 10 | 10 |
| No | 52 | 7 | 22 | 23 |

With respect to juveniles, however, CSS may afford opportunities for work skills development; for the inculcation of responsible attitudes toward work; and for general character development. These are some of the opinions held by the surveyed judges of the Family Court and may be attributable to the fact that juveniles are young and still malleable in terms of attitude change and character growth. Also, some juveniles may have never had any type of work experience which CSS can provide with potentially beneficial results.

V. CRIMINAL SENTENCING QUESTIONS

A. HOW DOES COMMUNITY SERVICE SENTENCING RELATE TO THE TRADITIONAL ALTERNATIVES IN CRIMINAL SENTENCING? Rather well.

CSS apparently adds a new dimension to criminal sentencing in Hawaii. The traditional sentencing alternatives are, in varying degrees, negative and nonproductive in nature. Fines result in economic loss; jail entails loss of freedom; and probation imposes conditions on freedom.

In contrast, some judges in the survey indicated that CSS is a "positive" sentence, that it has the potential for benefiting both the offender (e.g., the feeling of doing something for society), and the community (e.g., the role played in criminal rehabilitation).

CSS is also a "productive" sentence. It provides manpower for public service work which, as agency representatives were quoted earlier as saying, might otherwise be deferred or not get done at all. Table 12 gives a count on the number of times judges in the survey indicated each category as being a goal of CSS.

TABLE 12. JUDGE VIEWS ON THE GOALS OF COMMUNITY SERVICE SENTENCING*

| GOAL | TOTAL | COURT | | |
|---------------------------------|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Alternative to Jail and Fine | 14 | 4 | 1 | 9 |
| Deterrence | 9 | 4 | 1 | 4 |
| Positive Sentence | 8 | 3 | 2 | 3 |
| Alternative Sentence, General | 7 | 4 | 1 | 2 |
| Rehabilitation | 6 | 5 | 0 | 1 |
| Restitution (Repay Community) | 6 | 3 | 1 | 2 |
| Punishment | 5 | 1 | 1 | 3 |
| Match Sentence to Offense | 3 | 0 | 0 | 3 |
| *This is a multiple-choice item | | | | |
| (Number of judges in survey) | (30) | (12) | (4) | (14) |

From this result it can be concluded that community service sentencing not only integrates well with the other sentencing alternatives, but that it also adds a positive dimension to the existing array of judicial sanctions.

B. IS COMMUNITY SERVICE SENTENCING A VIABLE SENTENCE IN AND OF ITSELF? Yes. However, CSS will probably be used as with the other sentencing alternatives, in combination.

In the District Court of the First Circuit, fifty-five or 11% of the cases were given CSS only.

TABLE 13. OFFENSES FOR WHICH COMMUNITY SERVICE IS ONLY SENTENCE GIVEN, FIRST CIRCUIT DISTRICT COURT

| OFFENSE | NUMBER OF OFFENDERS GIVEN CS ONLY | TOTAL NUMBER IN OFFENSE CATEGORY |
|------------------------------|-----------------------------------|----------------------------------|
| Harassment | 1 | 8 |
| Assault III | 2 | 12 |
| Simple Trespass | 1 | 2 |
| Welfare Fraud | 1 | 2 |
| Theft III | 6 | 72 |
| Crim. Prop. Damage II | 1 | 3 |
| Crim. Tampering | 1 | 1 |
| Crim. Littering | 12 | 27 |
| Open Lewdness | 1 | 2 |
| Prostitution | 1 | 19 |
| Disorderly Conduct | 2 | 26 |
| Prom. Detrimental Drug III | 3 | 15 |
| Prom. Intox. Compound | 1 | 7 |
| Careless Driving | 2 | 4 |
| Driving Under Influence | 2 | 57 |
| Speeding | 2 | 69 |
| Fraud. Use of License Plates | 1 | 4 |
| No Driver's License | 5 | 28 |
| Untaxed Vehicle | 1 | 2 |
| Safety Check | 1 | 8 |
| No Driv. Lic. on Person | 2 | 10 |
| Fishing Without Permit | 1 | 1 |
| Contempt | 3 | 13 |

While no case of the Circuit and Family Court was given CSS only, this does not preclude such use in those courts. However, criminal sentencing usually entails multiple judicial sanctions.

Tables 14 and 15 depict the pattern of sentencing given to the CSSP offender population of the Circuit and District Courts (similar data was not available for the Family Court).

TABLE 14. PATTERN OF SENTENCING COMBINATIONS, CIRCUIT COURT

| SENTENCE | SENTENCE | | | | | |
|---|----------|------|------|------|------|----|
| | FINE | RSTN | PBTN | JAIL | DAGP | LS |
| Fine | 1 | - | 3 | - | 13 | 1 |
| Restitution | 3 | 0 | 5 | 4 | 5 | - |
| Probation | 3 | 5 | 13 | 6 | 7 | 2 |
| Jail | - | 4 | 6 | 6 | - | - |
| DAGP* | 13 | 5 | 7 | - | 23 | - |
| License Suspension | 1 | - | 2 | - | - | 2 |
| *Deferred Acceptance of Guilty Plea | | | | | | |

TABLE 15. PATTERN OF SENTENCING COMBINATIONS, FIRST CIRCUIT DISTRICT COURT

| SENTENCE | SENTENCE | | | | | | | |
|--|----------|------|------|------|------|------|----|------|
| | CS | FINE | RSTN | PBTN | JAIL | DAGP | LS | TPTS |
| Community Service | 55 | - | - | - | - | - | - | - |
| Fine | - | 46 | - | - | 1 | 4 | 4 | 78 |
| Restitution | - | - | 4 | - | - | 6 | - | - |
| Probation | - | - | - | 1 | - | - | 1 | - |
| Jail | - | 1 | - | - | 2 | - | 1 | 1 |
| DAGP | - | 4 | 6 | - | - | - | - | - |
| License Suspension | - | 4 | - | 1 | 1 | - | 8 | 16 |
| Traffic Points | - | 78 | - | - | 1 | - | 16 | 87 |
| *Deferred Acceptance of Guilty Plea | | | | | | | | |

The tables can be read either by row or by column. Interpreting by row, it can be seen that 46 cases of the District Court were given a sentence of fine and CS, while four cases were given the combination, fine, DAGP and CS. Numbers along the diagonal, where like sentences intersect, indicate the number of cases that were sentenced to CS and the respective sentence only.

In summary, the experience of the First Circuit District Court indicates that community service sentencing can be used alone. However, CSS will probably be imposed in combination with other sentencing alternatives as judges strive to fit the best mix of punishment/rehabilitation they deem appropriate for each individual case.

C. IS COMMUNITY SERVICE SENTENCING AN APPROPRIATE ALTERNATIVE TO INCARCERATION? Not in all cases.

Judges in the survey were asked a question similar to this and their responses are shown in the table below.

TABLE 16. JUDGE VIEWS ON USING CSS IN LIEU OF INCARCERATION

| Would You or Have You Ever Sentenced an Offender to Community Service in Lieu of Incarceration? | NUMBER | % |
|---|--------|------|
| Yes, Definitely | 3 | 10.0 |
| Yes, Depending on the Case | 13 | 43.3 |
| No, Use CSS only for Fine | 13 | 43.3 |
| No Comment | 1 | 3.3 |

A slight majority of the judges indicated agreement with the survey question, but most of those added the qualification that using CSS as an alternative to jail depends on the circumstances of the case. As one judge commented, "when we entertain thoughts of jail, the situation is pretty serious."

Inferring from other comments made by the judges, one of the qualified cases where CSS is an appropriate alternative is the indigent offender who cannot afford to pay a fine and therefore faces a jail sentence instead. In that situation, CSS would be used in lieu of jail. But apart from that apparent consensus among the judges, no other common characteristic could be generalized from their comments that would define other qualified cases for which CSS is an appropriate alternative to incarceration.

D. WHAT CRITERIA DO JUDGES FEEL ARE IMPORTANT WHEN DECIDING TO GIVE COMMUNITY SERVICE SENTENCES?

Given the previous result, it would be interesting to know what criteria judges use or feel are important when they decide whether or not to give CSS.

TABLE 17. JUDGE CRITERIA IN GIVING COMMUNITY SERVICE SENTENCE*

| CRITERIA | TOTAL | COURT | | |
|---------------------------------|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Type of Offense | 17 | 7 | 1 | 9 |
| Character of Offender | 16 | 7 | 3 | 6 |
| Ability to Pay Fine | 10 | 3 | 0 | 7 |
| Will Benefit From Work | 6 | 2 | 2 | 2 |
| Prior Criminal History | 5 | 3 | 0 | 2 |
| Willingness to Complete | 5 | 2 | 1 | 2 |
| Avoid Giving Jail Sentence | 2 | 0 | 0 | 2 |
| *This is a multiple-choice item | | | | |

The Judges were also asked what criteria they use or feel are important in determining the number of hours to sentence.

TABLE 18. JUDGE CRITERIA IN DETERMINING NUMBER OF HOURS TO SENTENCE*

| CRITERIA | TOTAL | COURT | | |
|---|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Equate Fine to Minimum Wage and Compute Hours | 14 | 2 | 1 | 11 |
| Type of Offense | 13 | 4 | 1 | 8 |
| Recommendation of Probation Officer | 8 | 4 | 2 | 2 |
| Ability to Pay Fine | 2 | 0 | 0 | 2 |
| Ability to do Work | 2 | 2 | 0 | 0 |
| Character of Offender | 1 | 0 | 0 | 1 |
| *This is a multiple-choice item | | | | |

In summary, the matter of criminal sentence dispensation is complex, one not easily reducible to recipe form. This subject is also considered in the next section.

VI. LEGISLATION QUESTIONS

A. IS CLARIFICATION IN THE PENAL CODE NEEDED REGARDING COMMUNITY SERVICE SENTENCING? Generally, no.

Judges in the survey were asked this question and they answered this way:

TABLE 19. JUDGE VIEWS ON PENAL CODE CLARIFICATION

| IS CLARIFICATION IN THE PENAL CODE NEEDED REGARDING CSS? | TOTAL | COURT | | |
|--|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Yes | 7 | 1 | 3 | 3 |
| No | 17 | 7 | 1 | 9 |
| No Opinion | 6 | 4 | - | 2 |

Seventeen of the thirty judges felt that Penal Code clarification is not necessary. A typical answer was, "It is clear enough as it is" (District Court judge). Examples of other answers in the negative were:

Circuit Court

"No, there may be extenuating circumstances where the offender may benefit from CS but not meet specified criteria."

"If administrative rules and regulations are implemented then legislation is not necessary."

"No, any type of restrictions in sentencing would not be beneficial."

"I think there are enough guidelines."

District Court

"It doesn't have to be in the Penal Code, but just guidelines for court staff to use. The guidelines should be standardized-standard procedures, reporting, etc."

"I think it's fairly well covered, especially now that the Penal Code states that we can use it as an alternative."

"Not in the Penal Code but more administrative details should be worked out such as follow through, reporting back by agencies to verify compliance, etc."

As can be seen in Table 19, three of the four Family Court judges in the survey answered the question affirmatively. Their comments were:

"It might be helpful to have a clear statement (in the Family Court Act) that we have the option."

"I got some questions about liability. Suppose the child gets hurt or suppose the child hurts somebody? What about Workmen's Compensation?"

"Yes, definitely, for I hesitate to make dispositions involving CSS without a clear-cut definition or understanding of legal liability. If someone gets hurt doing CS, who has legal liability? There has to be more definite clarification of responsibility."

The legal liability issue was also raised by a District Court judge:

"The question of liability needs to be addressed. Need more clarification on who should be responsible, e.g., insurance."

In summary, a majority of judges feel the Penal Code adequately covers community service sentencing. However, the legal liability question raised by some judges perhaps indicates an area for further study.

B. SHOULD GUIDELINES FOR COMMUNITY SERVICE SENTENCING BE WRITTEN INTO LAW? Generally, no.

For the survey, judges were asked to review a proposal for statutory CSS guidelines. (A proposal was drafted by The Judiciary's VIPS program in conjunction with the Adult Probation Division of the First Circuit. A copy is included in the Appendix.) The question was asked to determine whether judges feel they need written guidelines to assist them in deciding when to use community service sentencing.

Twelve of the thirty judges indicated that statutory guidelines are not needed.

TABLE 20. JUDGE VIEWS ON STATUTORY CSS GUIDELINES

| Generally, How Would You Feel About Proposed Legislation Such as the Attached? | TOTAL | COURT | | |
|--|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| OK if Revised | 9 | 4 | 1 | 4 |
| OK if Guidelines Only | 9 | 3 | - | 6 |
| Not OK | 12 | 5 | 3 | 4 |

Some of their comments were:

Circuit Court

"The criteria for imposition of sentence should be left to the discretion of the judge. It should be individualized. There may be a tendency for judges to adhere to the schedule. An opportunity for a judge to cop out."

Family Court

"I don't think you need it. I don't think you need any mandatory sentencing."

"I don't like it, it takes discretion away from judges. Anytime you put something like this (the proposed guidelines) into law it no longer becomes guidelines."

"From the judges' point-of-view, the more leeway the better. From the community's and legislature's point-of-view, sure they might like guidelines to look at for standards. But don't be too specific. Lots of times the legislature gets too specific so we in the Judiciary run into problems."

District Court

"...it's covered by our Penal Code already (e.g., HRS 706-621, Grounds for Withholding Sentence of Imprisonment)."

"I'm personally not in favor of setting these guidelines in the statutes. It may work to restrict judges. These are considerations we use already anyway."

Nine judges responded affirmatively to the question with the qualification that such guidelines be guidelines only and not a scheme for mandatory sentencing. Another nine judges responded affirmatively but with the qualification that the proposed list be first revised. However, there was no consensus among those judges on the revisions to make, so it is doubtful whether any revised list would be acceptable to each of them. This finding further indicates that no common denominator exists to define the prototypic CSS candidate (e.g., the section on criminal sentencing in this report).

From the comments made to this question, it can be concluded that judges do not want statutory guidelines for community service sentencing. The primary concern of the judges is that statutory guidelines will impinge upon, and eventually erode, their discretionary authority in the use of CSS.

But while judges prefer not to have guidelines in the statutes, they appear to want guidelines of a more informal nature, perhaps something similar in form and content to a judicial "benchbook." One judge suggested the development of a manual or handbook that would integrate all of the Judiciary's post-sentence activities (e.g. probation, deferred acceptance of guilty plea, CSS) into a systematic and rational program, from sentencing to sentence completion.

VII. OFFENDER FEEDBACK

A. HOW DID OFFENDERS FEEL WHEN FIRST SENTENCED? Anxious to get it over with.

Offenders in the survey were asked how they felt when they received their community service sentence. Slightly less than half of them expressed the desire simply to get it over with.

TABLE 21. OFFENDER ATTITUDES TOWARD BEING GIVEN COMMUNITY SERVICE SENTENCE

| How Did You Feel When You First Found Out You Were Sentenced to do Community Service Work? | TOTAL | COURT | | |
|--|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Anxious to Get it Over With | 33 | 4 | 16 | 13 |
| Excited at Chance to Work for Community | 10 | 2 | 3 | 5 |
| Resentful I Had to Work | 9 | - | 7 | 2 |
| Disappointed | 7 | 1 | 2 | 4 |
| Was a Chance to do Something Different | 4 | 1 | 2 | 1 |
| Had To Do It | 4 | 1 | 1 | 2 |
| Didn't Care | 3 | 1 | - | 2 |
| Glad, I Couldn't Pay Fine | 2 | - | - | 2 |
| Other | 2 | - | 1 | 1 |
| No Answer | 2 | 1 | - | 1 |

When their responses are grouped by degrees of positiveness/negativeness, the result is as follows:

| <u>Attitude toward Sentence</u> | <u>N</u> |
|---------------------------------|----------|
| Positive | 16 |
| Neutral | 40 |
| Negative | 16 |
| Other/No Answer | 4 |

(The grouping is based on the following. Positive: excited at chance to work for community; chance to do something different; glad, couldn't pay fine. Neutral: anxious to get it over with; had to do it; didn't care. Negative: resented; disappointed.)

B. HOW DO OFFENDERS VIEW THEIR CSS EXPERIENCE? Favorably.

A majority of the offenders expressed favorable answers to related questions they were asked in the survey.

TABLE 22. OFFENDER RESPONSES TO SELECTED SURVEY QUESTIONS

| QUESTION | TOTAL | COURT | | |
|---|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Were You Satisfied With Your Community Service Placement? | | | | |
| Yes | 59 | 10 | 30 | 29 |
| No | 7 | 1 | 2 | 4 |
| Was Work Wasteful of Time and Energy? | | | | |
| Yes | 20 | 4 | 8 | 8 |
| No | 56 | 7 | 24 | 25 |
| Did Work Give You Skills for Future Employment? | | | | |
| Yes | 24 | 4 | 10 | 10 |
| No | 52 | 7 | 22 | 23 |
| Did Work Help You Understand Community Needs Better? | | | | |
| Yes | 58 | 8 | 28 | 22 |
| No | 18 | 3 | 4 | 11 |
| How Do You Feel About The Program Now That You've Completed It? | | | | |
| Excellent Program | 21 | 4 | 5 | 12 |
| Okay Program | 47 | 6 | 22 | 19 |
| Not So Good Program | 4 | 1 | 2 | 1 |
| No Opinion | 4 | - | 3 | 1 |

C. WHAT IMPACT HAS CSS HAD ON OFFENDERS? Tentatively, favorable.

Two of the survey questions can be used to provide a tentative answer to this question: "how did you feel when first sentenced," and "how do you feel about the program now that you've completed it." A hypothesis of favorable impact would be substantiated if:

1. offenders who were initially positive or neutral to the sentence do not subsequently rate the program negatively, and
2. offenders who were initially negative to the sentence subsequently rate the program positively.

As can be seen in Table 23, the hypothesis of favorable impact is "substantiated."

TABLE 23. OFFENDER INITIAL FEELINGS TOWARD SENTENCE BY OFFENDER LATER FEELINGS TOWARD PROGRAM

| INITIAL FEELINGS | TOTAL | LATER FEELINGS | | | |
|------------------|-------|----------------|------|-------------|------------|
| | | EXCELLENT | GOOD | NOT SO GOOD | NO OPINION |
| Total | 76 | 21 | 47 | 4 | 4 |
| Positive | 16 | 6 | 10 | - | - |
| Neutral | 40 | 7 | 28 | 3 | 2 |
| Negative | 16 | 5 | 8 | 1 | 2 |
| Other/No Answer | 4 | 3 | 1 | - | - |

It should be noted that the hypothesis of favorable impact is not statistically confirmed by the above result. Data from one-time surveys is usually not suitable for hypothesis testing of this kind. However, the result does indicate that CSS may be more favorable in impact than negative.

VIII. PROGRAM IMPLEMENTATION QUESTIONS

A. HOW DO AGENCIES AND JUDGES VIEW THE PROCESSING AND FOLLOW-UP OF CS OFFENDERS BY COURT STAFF?

Agency representatives expressed general satisfaction with the processing and follow-up of offenders by court staff.

TABLE 24. AGENCY VIEWS ON OFFENDER PROCESSING AND FOLLOW-UP BY COURT STAFF

| | PROCESSING | FOLLOW-UP |
|--------------|------------|-----------|
| Satisfied | 30 | 31 |
| Dissatisfied | 7 | 9 |
| No Comment | 5 | 2 |

In contrast, judges were almost equally divided in their assessment of offender processing and follow-up.

TABLE 25. JUDGE VIEWS ON OFFENDER PROCESSING AND FOLLOW-UP BY COURT STAFF

| | TOTAL | COURT | | |
|--------------|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Satisfied | 9 | 3 | 1 | 5 |
| Dissatisfied | 10 | 2 | 1 | 7 |
| No Comment | 11 | 7 | 2 | 2 |

Judges who expressed a favorable opinion generally commended their probation departments for doing a good job despite inadequate staffing.

"My impression is that it has been pretty good." The (District Court, First Circuit) Counseling Service, overburdened and understaffed, do a good job."

"Very good job done by Probation Officers." (Family Court)

A third of the judges expressed no opinion due to limited experience in using CSS, while another third indicated a desire to see improved follow-up.

(Judges receive) no feedback on how defendants performed, how cooperative they were." (Circuit Court)

"It has to be improved - accountability of performance." (District Court)

"There has to be better follow-up of where defendants are sent." (District Court)

B. WHAT ARE THE OVERALL IMPRESSIONS OF AGENCIES AND JUDGES TOWARD THE CSS PROGRAM?

AGENCIES

Agency representatives expressed positive overall impressions toward the CSS program.

TABLE 26. OVERALL IMPRESSION OF AGENCIES TOWARD THE CSS PROGRAM

| | NUMBER | % |
|------------------------|--------|----|
| Positive, General | 16 | 38 |
| Positive, For Client | 9 | 21 |
| Positive, For Agency | 6 | 14 |
| Indifferent/Ambivalent | 4 | 10 |
| Negative | 3 | 7 |
| No Comment | 4 | 10 |

Some of the positive comments made by the representatives were:

"The program is a big help. We can really use them."

"It helps a lot. Wish we could hire some of the kids."

"We like it. I would rather see people who directly violate our rules be sent to us (C & C, Parks & Rec.) like kids and vandals. It would be more beneficial for those people."

"It's an excellent way of working out a problem that does not involve money, and the net result may be more desirable for the offender and community."

"They are helping out different community projects. It helps them to be aware of community needs."

"Send more! We'll give people a chance if they want it."

"I feel very happy with it. Basically, it has saved us money, brought us volunteers who remain (& some have been professionals). We feel we are doing a community service and that also gives us satisfaction."

"It's good. For one thing, it impresses on some of the offenders the seriousness of their crimes. It's not as easy as paying a couple of bucks for a fine. It works, in a way."

Examples of negative comments:

"I don't care for it. If I get them, I have to watch them."

"It doesn't matter. Even if we don't have helpers I can do without."

"We are seriously contemplating discontinuing all programs of this kind. We recently encountered some thefts...that some of the juveniles have admitted to. It's just not worth all the effort and complications."

JUDGES

Twenty of the thirty judges in the survey also expressed positive overall impressions.

TABLE 27. OVERALL IMPRESSION OF JUDGES TOWARD THE CSS PROGRAM

| | TOTAL | COURT | | |
|------------|-------|---------|--------|----------|
| | | CIRCUIT | FAMILY | DISTRICT |
| Positive | 20 | 7 | 1 | 12 |
| Negative | 3 | - | 2 | 1 |
| No Comment | 7 | 5 | 1 | 1 |

Some of their positive comments were:

Circuit Court

"No objections to concept. It's an alternative all judges can consider."

"Make public happier that offenders are doing something."

"Make defendant understand that community has rules and when violated, he has responsibility to repay."

"Should be continued and improved."

Family Court

"If properly structured and utilized, it can provide a sense of self-confidence, direction and pride in the individual."

District Court

"It satisfies a need in the criminal justice system. The alternative would be to impose fine, probation, suspended sentence... Prior to the program, I have been imposing an indeterminate jail sentence at HPD jail block. This program will take its place."

"Gives courts an alternative, especially for cases that fall in-between; good for the community as a whole..."

"It allows punishment to fit the crime."

"It's working at the District Court (First Circuit). It's not rehabilitation but it impresses upon them that any violation will be punished."

"It's a good alternative for judges to have available, but judges must have confidence in the program to use it."

"Hopefully, defendant pays his debt to society and through his service, more fully appreciate the needs of the community."

Negative comments were directed to the follow-up problems.

C. WHAT DO AGENCIES AND JUDGES RECOMMEND TO IMPROVE THE PROGRAM?

AGENCIES

Agency representatives were asked how important (a) program orientation, (b) consultation with and (c) coordination between court and agency are to the success of the program. A majority of the representatives responded that all three factors are important.

TABLE 28. AGENCY RECOMMENDATIONS FOR PROGRAM SUCCESS

| | IMPORTANT | | |
|--|-----------|----|------------|
| | YES | NO | NO COMMENT |
| Agency Orientation to Program by Court | 36 | 2 | 4 |
| More Consultation from Court Staff | 30 | 8 | 4 |
| Better Coordination Between Court and Agency | 28 | 12 | 2 |

The representatives also provided comments from which can be inferred areas for program improvement.

"There should be a method for handling the no-show problem."

"We need more information on the liability problem."

"Make sure the client knows what they are doing and why they are doing it. We assign them to janitorial work and they sometimes feel disappointed."

"We'd like to know what kind of offense. If offender is a thief we'd like to know since we handle cash."

"The principle thing is the liability question. I don't see why we should be liable for the actions of the volunteer (client) when I'm actually doing a favor for the courts by taking them. I would've just used another volunteer and avoid the hassle of all the potential problems that could be involved with a convict. One way is to improve liability coverage for actions the person might take against one of my workers."

"I strongly recommend that you have orientation meetings. Out of the blue you call us up and ask if you can send some boys over. We don't even know what kind of responsibilities we have."

"I don't know. The basic question is the liability issue."

"Just please involve our school in the decision to assign the child here. At least to see if it will be feasible or not."

"Would like the name of the court person to contact in case of any difficulties."

"How about background information on the volunteer (client) to help us determine how and where they can be helpful."

"Secure liability insurance to protect the agency. Properly screen the clients to make the best use of their skills in meeting community needs."

"Closer monitoring by the courts. I'm not sure if it's good to sentence a person to CS if offense is not related."

"Agency should be informed of where client is at - attitudes, behavior, expectations, physical limitations."

JUDGES

Judges were asked if they could identify any weaknesses in the CSS program.

TABLE 29. JUDGE VIEWS ON MAJOR PROGRAM WEAKNESS

| | TOTAL | COURT AND JUDICIAL CIRCUIT | | | | | | | | | |
|-------------------------------|-------|----------------------------|---|---|---|--------|----------|---|---|---|--|
| | | CIRCUIT | | | | FAMILY | DISTRICT | | | | |
| | | 1 | 2 | 3 | 5 | 1 | 1 | 2 | 3 | 5 | |
| No Feedback/ Follow-up | 8 | 6 | 1 | - | - | - | - | 1 | - | - | |
| No Structure/ Organization | 5 | 1 | - | - | - | 3 | - | 1 | - | - | |
| No Liability/ Protection | 2 | - | - | 1 | - | 1 | - | - | - | - | |
| Other | 6 | 2 | - | - | - | - | 3 | - | 1 | - | |
| No Comment | 7 | 1 | - | 1 | - | - | 3 | - | 1 | 1 | |

From their comments to this and other questions in the survey, the following represent some of the implied recommendations judges may have for program improvement.

Circuit Court

"Need more follow-up for judges to know what happened (e.g., whether client complied)." (First Circuit)

"Maybe CSS should not be put in hands of volunteers (the VIPS program) since volunteers are not around long to be responsible." (First Circuit)

"Need a program for proper supervision of defendants." (Second Circuit)

"More feedback from probation department on compliance." (Second Circuit)

Family Court

"We need a full program in an adequate capacity for follow-up; current options are insufficient (regarding types of agencies to refer to)." (First Circuit)

"We must have more availabilities for CS work, not just picking up litter. We want it to be productive time spent, a form of rehabilitation." (First Circuit)

"Before you start selling the program to judges, sell it to places you are going to use. Also the liability question needs to be resolved." (First Circuit)

"It is very desirable that as much emphasis as possible be placed on developing a well-rounded program 'as soon as possible'. Issues to be decided: who will run program; selection criteria (do not limit to law violators)." (First Circuit)

District Court

"Need guidelines for case processing and follow-up." (First Circuit)

"Need more cohesion. E.g., there is no overall coordination of CS effort. Each counselor is left to ascertain the appropriate type of CS. This has tended toward disparate treatment among offenders of the same type." (First Circuit)

"Need more feedback concerning what was accomplished by defendant (e.g., type of work) and what his attitudes are as a result of CS." (First Circuit)

"We need a total program (for all post-sentencing activities)." (First Circuit)

"We need trained personnel to handle the program." (First Circuit)

"Prosecutor's Office should be tied into system. Prosecutor must initiate action if defendant fails to comply." (Second Circuit)

"There should be a system for referral, follow-up and keeping judges informed." (Third Circuit)

IX. CONCLUSIONS

The research for this report was not designed to provide data for recommendations. However, the information just reviewed do suggest three possible areas for action.

1. A clarification of the legal liability issue.

It seems unfair to

- a. require offenders to perform an activity in which they have no workmen's compensation protection for injuries sustained in the course of performing public service work;
- b. put certain agencies and their workers in the situation of working with a convicted person from whom they may have no liability protection.

2. The possibility of developing a post-sentence manual that would integrate all of the post-sentencing activities of the Judiciary into a systematic and rational program. The manual would be for judges and court staff, compiled separately for each court level, and can contain

- a. documentation of all relevant statutes pertaining to probation, DAGP, CSSP, etc.,
- b. guidelines for offender selection and sentencing for each sentencing alternative,
- c. integrated rules of administrative procedures and practices.

3. Centralization of the Community Service Sentencing activities for statewide program implementation. A central office has several advantages. It

- a. locates responsibility and accountability; ensures consistency in implementation; promotes program cohesion and structure; provides an information clearinghouse function;
- b. centralizes agency recruiting and facilitates agency consultation and coordination.

It should be noted that at the time this report was being written, the Judiciary's Volunteers in Public Service to the Courts (VIPS) program had assumed responsibility for the coordination of all community service referrals for the Family and Circuit Courts of the First Circuit.

APPENDIX A. HOUSE RESOLUTION 140 AND STANDING
COMMITTEE REPORT 648-78

HOUSE OF REPRESENTATIVES
THE NINTH LEGISLATURE

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

March 15, 1978



RECEIVED
Mar 20 9 45 AM '78
ADM. DIRECTOR
OF THE COURTS

Mr. Lester E. Cingcade
Administrative Director
of the Courts
P. O. Box 2560
Honolulu, Hawaii 96804

Dear Sir:

I transmit herewith a copy of House
Resolution No. 140, which was adopted
by the House of Representatives of the
Ninth Legislature of the State of Hawaii,
Regular Session of 1978.

Very respectfully,

George M. Takane
George M. Takane
Clerk, House of Representatives

Speaker
JAMES H. WAKATSUKI
Vice Speaker
DANIEL J. KIHANO
Majority Leader
RONALD Y. KONDO
Minority Floor Leader
JANN L. YUEN

First District
JACK K. SUWA
Second District
HERBERT A. SFGAWA
*KATSUYA YAMADA
Third District
YOSHITO TAKAMINE

Fourth District
MINORU INABA
Fifth District
*RICHARD L. CALDITO Jr.
GERALD K. MACHIDA

Sixth District
RONALD Y. KONDO
*MEYER M. UEOKA

Seventh District
*ROBERT D. DODS
*DONNA R. IKEDA

Eighth District
*STEVE COBB
JACK LARSEN

Ninth District
*TED T. MORIOKA
CALVIN K. Y. SAY

Tenth District
KEN KIYABU
LISA NAITO

Eleventh District
JOHN S. CARROLL
*KINAU BOYD KAMALII

Twelfth District
CARL T. TAKAMURA
*CLIFFORD T. UWAINA

Thirteenth District
*FIL ABERCROMBIE
*RAM L. FONG JR.
*CHARLES T. USHIJIMA

Fourteenth District
RUSSELL BLAIR
KATHLEEN STANLEY

Fifteenth District
BYRON BAKER
RICHARD IKE SUTTON

Sixteenth District
*TED MINA
TONY NARVAES

Seventeenth District
CHARLES M. CAMPBELL
RICHARD GARCIA

Eighteenth District
MITSUO UGUCHI
JAMES H. WAKATSUKI

Nineteenth District
BENJAMIN J. CAYETANO
NORMAN MIZUGUCHI

Twentieth District
DANIEL J. KIHANO
MITSUO SHIHO

Twenty-First District
JAMI S AKI
HENRY H. PETERS

Twenty-Second District
OLIE LUNASCO
*YOSHIRO NAKAMURA

Twenty-Third District
CHARLES T. UGUCHI

Twenty-Fourth District
*RALPH KANICHI AHI U
*LATH P. EVANS

Twenty-Fifth District
JOHN J. MUDJROS
ANDREW K. POI POE

Twenty-Sixth District
JANN L. YUEN

Twenty-Seventh District
*RICHARD A. KAWAKAMI
TONY T. KUGIMURA
DENNIS R. YAMADA

*Assistant Majority Floor Leader
*Minority Leader
*Minority Floor Leader
*Assistant Minority Floor Leader

HOUSE RESOLUTION

REQUESTING A STUDY OF SENTENCING.

WHEREAS, the criminal justice system, including the rehabilitation of persons convicted of crimes, plays a crucial part in the stability of the community, and the emphasis under the Hawaii Correctional Master Plan has been on the successful reintegration of the convicted person into a society as a law abiding citizen; and

WHEREAS, it is in the best interest of society and of the person convicted of a crime that this person does not continue to engage in criminal activities, and this goal is a mixture of changing the attitudes of the person and of society toward that person; and

WHEREAS, a change in attitude may result if an individual obtains working skills, enabling that individual to obtain a job in the community later on and making a successful re-adjustment back into society; and

WHEREAS, the present system of sentencing may be too limited to offer a convicted person the opportunity for employment training and development of work skills, and an alternative sentencing provision authorizing sentencing to work on public projects may be desirable; and

WHEREAS, such an alternative sentencing provision may also help the State to complete necessary public projects which otherwise might not be completed due to lack of funding, especially in the present tight fiscal situation; and

WHEREAS, it is not clear at what stage or in what form such alternative sentencing would take, i.e. whether the sentence should become an alternative or as part of a suspended sentence, probation, or parole; now, therefore,

BE IT RESOLVED by the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, that the Judiciary, with the assistance and cooperation of the Department of Social Services and Housing and the Department of Labor and Industrial Relations study the possibility of alternative sentencing, or as part of existing sentencing, to require or allow convicted persons to work on public projects, including, but not limited to, possible work areas in which such work by convicted persons may be used, the possibility of sentencing as an alternative to incarceration, and the impact of private industry; and

BE IT FURTHER RESOLVED that the Judiciary complete its study and submit its findings and recommendations to the House of Representatives prior to the convening of the 1979 regular session; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Administrative Director of the Courts, the Director of Social Services and the Director of Labor and Industrial Relations.

Honolulu, Hawaii
March 6, 1978

RE: H.B. No. 1970-78

The Honorable James H. Wakatsuki
Speaker, House of Representatives
Ninth Legislature
Regular Session, 1978
State of Hawaii

Sir:

Your joint Committees on Corrections and Rehabilitation and Judiciary, to which was referred H.B. No. 1970-78, entitled: "A BILL FOR AN ACT RELATING TO COMMUNITY SERVICE AS A SENTENCING ALTERNATIVE", beg leave to report as follows:

The purpose of this bill is to amend section 706-605, Hawaii Revised Statutes, (Hawaii Penal Code) by adding community service, under the supervision of a governmental agency or benevolent or charitable organization, to the present sentencing alternatives for convicted persons.

Testimony presented by the Department of Social Services and Housing states that the department is in favor of this bill because it would carry out one of the goals of the Hawaii Correctional Master Plan: to provide alternatives to incarcerating low-risk offenders. The State Judiciary has testified in favor of this bill because it would provide a meaningful sentence for convicted persons for whom fines or imprisonment may be inapplicable and because it would be an excellent sentencing alternative for first offenders.

During his testimony, the representative of the Judiciary discussed present usage by that department of community service as a sentencing alternative for offenders. Explaining that the present program is intended mainly for first offenders, many of whom have been convicted of traffic offenses and misdemeanors, he said that types of alternative service have included work assignments in hospitals, for the Salvation Army, and for the Nuuanu YMCA. Work alternatives are assigned by offenders' probation officers.

There ensued a discussion on the recidivism rate for offenders who have been assigned to community service. Your committees feel that a study of the recidivism rate after

participants have been in the program for one year would be of assistance in evaluating the achievements of this sentencing alternative. Such a study should include information on whether the participants are first offenders, second offenders, incorrigibles, or in any other category. The suggestion was made that the appropriate agency to conduct such a study would be the Judiciary.

A request was made that this committee report include as an attachment a written opinion received from the Department of the Attorney General, stating that requiring convicted persons to do community service is an inappropriate exercise of judicial power and therefore legislation is needed to allow such a sentencing alternative.

Your joint committees on Corrections and Rehabilitation and Judiciary, are in accord with the intent and purpose of H.B. No. 1970-78 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted,

Richard Garcia
RICHARD GARCIA, Chairman
Judiciary Committee

Lisa Naito
LISA NAITO, Chairperson
Committee on Corrections and
Rehabilitation

Katsuya Yamada
KATSUYA YAMADA, Vice Chairman
Judiciary Committee

Meyer M. Ueoka
MEYER M. UEOKA, Vice Chairman
Committee on Corrections and
Rehabilitation

Byron W. Baker
BYRON W. BAKER, Member

Byron W. Baker
BYRON W. BAKER, Member

Russell Blair
RUSSELL BLAIR, Member

Russell Blair
RUSSELL BLAIR, Member

Steve Cobb
STEVE COBB, Member

Steve Cobb
STEVE COBB, Member

Lisa Naito
LISA NAITO, Member

Richard Garcia
RICHARD GARCIA, Member

Yoshiro Nakamura
YOSHIRO NAKAMURA, Member

Yoshiro Nakamura
YOSHIRO NAKAMURA, Member

Mitsuo Uechi
MITSUO UECHI, Member

Mitsuo Uechi
MITSUO UECHI, Member

Meyer M. Ueoka
MEYER M. UEOKA, Member

Clifford T. Uwaine
CLIFFORD T. UWAIN, Member

Clifford T. Uwaine
CLIFFORD T. UWAIN, Member

Dennis R. Yamada
DENNIS R. YAMADA, MEMBER

Dennis R. Yamada
DENNIS R. YAMADA, Member

Katsuya Yamada
KATSUYA YAMADA, Member

Hiram L. Fong, Jr.
HIRAM L. FONG, JR., Member

Hiram L. Fong, Jr.
HIRAM L. FONG, JR., Member

Donna Ikeda
DONNA IKEDA, Member

Donna R. Ikeda
DONNA R. IKEDA, Member

John J. Medeiros
JOHN J. MEDEIROS, Member

John J. Medeiros
JOHN J. MEDEIROS, Member

APPENDIX B1. OFFENSE BY AVERAGE COMMUNITY SERVICE

HOURS SENTENCED: CIRCUIT COURTS

APPENDIX B1. OFFENSE BY AVERAGE COMMUNITY SERVICE
HOURS SENTENCED: CIRCUIT COURTS

| OFFENSE | AVERAGE HOURS | NUMBER OF OFFENDERS | PER CENT |
|-----------------------------------|---------------|---------------------|----------|
| Against Person..... | 91.7 | 6 | |
| Negligent Homicide I | 75.0 | 2 | 4.6 |
| Negligent Homicide II | 125.0 | 2 | 4.6 |
| Assault III | 75.0 | 2 | 4.6 |
| Against Habitation..... | 70.0 | 2 | |
| Burglary II | 70.0 | 2 | 4.6 |
| Against Property..... | 73.9 | 12 | |
| Theft I (Stolen Property) | 85.7 | 7 | 16.3 |
| Theft I (Larceny) | 45.7 | 3 | 7.0 |
| Criminal Property Damage I | 50.0 | 1 | 2.3 |
| Forgery II | 100.0 | 1 | 2.3 |
| Against Public Order..... | 45.0 | 2 | |
| Cruelty to Animals | 50.0 | 1 | 2.3 |
| Other Firearms Offense | 40.0 | 1 | 2.3 |
| Against Public Health..... | 53.7 | 21 | |
| Promoting Detrimental Drugs I | 60.7 | 7 | 16.3 |
| Promoting Dangerous Drugs III | 60.0 | 5 | 11.6 |
| Promoting Detrimental Drugs II | 36.5 | 2 | 4.6 |
| Promoting Dangerous Drugs I | 50.0 | 2 | 4.6 |
| Possession of Gambling Records I | 50.0 | 2 | 4.6 |
| Promoting Dangerous Drugs II | 30.0 | 1 | 2.3 |
| Promoting Harmful Drugs I | 50.0 | 1 | 2.3 |
| Possession of Gambling Records II | 50.0 | 1 | 2.3 |

(No Data on Hours)

(6)

APPENDIX B2. OFFENSE BY AVERAGE COMMUNITY SERVICE
HOURS SENTENCED: FAMILY COURT

APPENDIX B2. OFFENSE BY AVERAGE COMMUNITY SERVICE
HOURS SENTENCED: FAMILY COURT

| OFFENSE | AVERAGE HOURS | NUMBER OF OFFENDERS | PER CENT |
|------------------------------------|---------------|---------------------|----------|
| Against Person..... | 21.0 | 10 | |
| Harassment | 17.5 | 4 | 4.3 |
| Assault III | 22.5 | 4 | 4.3 |
| Robbery II | 25.0 | 2 | 2.2 |
| Against Habitation..... | 19.1 | 42 | |
| Burglary II | 16.3 | 30 | 32.3 |
| Burglary I | 30.0 | 8 | 8.6 |
| Accomplice to Burglary II | 10.0 | 3 | 3.2 |
| Accomplice to Attempted Burglary I | 44.0 | 1 | 1.1 |
| Sex and Related..... | 40.0 | 1 | 1.1 |
| Attempted Rape | 40.0 | 1 | 1.1 |
| Against Public Administration..... | 48.0 | 1 | 1.1 |
| Probation Violation | 48.0 | 1 | 1.1 |
| Against Public Health..... | 5.0 | 1 | 1.1 |
| Promoting Detrimental Drugs III | 5.0 | 1 | 1.1 |
| Status Offenses..... | 25.2 | 4 | 4.3 |
| Person in Need of Supervision | 15.5 | 2 | 2.2 |
| Protective Supervision Violation | 10.0 | 1 | 1.1 |
| Incorrigible | 60.0 | 1 | 1.1 |
| Other..... | 6.0 | 2 | 2.2 |
| (No data on hours) | | (9) | |

APPENDIX B3. OFFENSE BY AVERAGE COMMUNITY SERVICE
HOURS SENTENCED: DISTRICT COURT, 1st CIRCUIT

APPENDIX B3. OFFENSE BY AVERAGE COMMUNITY SERVICE HOURS
SENTENCED: DISTRICT COURT, 1ST CIRCUIT

| OFFENSE | AVERAGE HOURS | NUMBER OF OFFENDERS | PER CENT |
|------------------------------------|---------------|---------------------|----------|
| Against Person..... | 35.5 | 23 | |
| Assault III | 46.5 | 12 | 2.5 |
| Harassment | 24.0 | 8 | 1.6 |
| Reckless Endangering | 22.0 | 3 | 0.6 |
| Against Habitation..... | 19.2 | 8 | |
| Criminal Trespass II | 20.0 | 5 | 1.0 |
| Simple Trespass | 12.0 | 2 | 0.4 |
| Criminal Trespass I | 30.0 | 1 | 0.2 |
| Against Property..... | 24.2 | 109 | |
| Theft III | 26.7 | 69 | 14.2 |
| Criminal Littering | 5.7 | 27 | 5.6 |
| Theft II | 45.0 | 5 | 1.0 |
| Crim. Property Damage II | 15.3 | 3 | 0.6 |
| Welfare Fraud | 120.0 | 2 | 0.4 |
| Crim. Property Damage III | 30.0 | 1 | 0.2 |
| Fraudulent Credit Card Use | 100.0 | 1 | 0.2 |
| Criminal Tampering | 1.0 | 1 | 0.2 |
| Sex and Related..... | 19.3 | 22 | |
| Prostitution | 19.6 | 19 | 3.9 |
| Open Lewdness | 11.0 | 2 | 0.4 |
| Promoting Prostitution III | 30.0 | 1 | 0.2 |
| Against Public Order..... | 20.5 | 30 | |
| Disorderly Conduct | 18.8 | 26 | 5.3 |
| Other Firearms/Ammunition | 36.3 | 3 | 0.6 |
| Carrying Deadly Weapon | 18.0 | 1 | 0.2 |
| Against Public Administration..... | 35.0 | 3 | |
| Resisting Order to Stop Car | 37.5 | 2 | 0.4 |
| Refusing to Aid Peace Officer | 30.0 | 1 | 0.2 |
| Against Public Health..... | 21.3 | 23 | |
| Promoting Detrimental Drugs III | 22.2 | 15 | 3.1 |
| Promoting Intoxicating Compounds | 16.6 | 7 | 1.4 |
| Promoting Detrimental Drugs II | 42.0 | 1 | 0.2 |

(APPENDIX B3 CONTINUED)

| OFFENSE | AVERAGE HOURS | NUMBER OF OFFENDERS | PER CENT |
|---------------------------------------|---------------|---------------------|----------|
| Traffic..... | 31.9 | 235 | |
| Speeding | 21.1 | 68 | 14.0 |
| Driving Under the Influence | 52.0 | 57 | 11.7 |
| Driving Without License | 37.2 | 28 | 5.7 |
| No Drivers License on Person | 34.0 | 10 | 2.1 |
| Safety Check | 10.2 | 8 | 1.6 |
| Other Traffic | 55.6 | 8 | 1.6 |
| Disregarding Stop Sign | 13.7 | 7 | 1.4 |
| No-Fault Insurance | 27.3 | 6 | 1.2 |
| Parking Violation | 18.0 | 6 | 1.2 |
| Crossing Solid Line | 12.0 | 5 | 1.0 |
| Careless Driving | 52.2 | 4 | 0.8 |
| Fraudulent Use of License Plates | 21.0 | 4 | 0.8 |
| Driving With Suspended License | 44.0 | 4 | 0.8 |
| Driving Wrong Way on One-Way St. | 14.7 | 3 | 0.6 |
| Improper Left Turn | 16.0 | 3 | 0.6 |
| Accident Involving Damage to Property | 21.0 | 2 | 0.4 |
| Jay Walking | 7.0 | 2 | 0.4 |
| Untaxed Vehicle | 7.0 | 2 | 0.4 |
| No Reconstruction Permit | 17.0 | 2 | 0.4 |
| Prohibited U-Turn | 16.0 | 1 | 0.2 |
| Right Turn on Red | 12.0 | 1 | 0.2 |
| No License Plates | 12.0 | 1 | 0.2 |
| No Registration Permit | 36.0 | 1 | 0.2 |
| No Headlights | 20.0 | 1 | 0.2 |
| Other..... | 18.2 | 29 | 2.7 |
| Contempt | 21.8 | 13 | 2.6 |
| Camping Without Permit | 12.5 | 6 | 1.2 |
| Harbor Regulation | 7.0 | 2 | 0.4 |
| Fishing Without Permit | 12.0 | 1 | 0.2 |
| Unlicensed Masseuse | 12.0 | 1 | 0.2 |
| Fishing Violation | 8.0 | 1 | 0.2 |
| Obedience to Officer | 10.0 | 1 | 0.2 |
| Not Available | 24.0 | 4 | 0.4 |
| No Data on Hours..... | - | 5 | 1.0 |

APPENDIX C. LIST OF AGENCIES

LIST OF AGENCIES

CIRCUIT COURT

FIRST CIRCUIT

Bishop Museum
City & County Parks and
Recreation/Waimanalo Beach
Park
Common Cause
District Court
Hawaii Community Design Center
Hawaiian Humane Society
Honolulu Community Action Program
Moanalua Gardens Foundation
Veteran's Administration
Waimano Training School & Hospital
West Oahu YMCA/Boy Scouts of America

SECOND CIRCUIT

Maui Special Learning Center
Hawaii Academy of Knowledge

FAMILY COURT

Aiea High School
Aiea Intermediate School
At offender's home
Campbell High School

THIRD CIRCUIT

Awareness House
Boy Scouts
Kaumanu Baptist Church
Salvation Army Interim House
Project Learn

FIFTH CIRCUIT

Kapaa Outreach

Castle High School
Castle Memorial Hospital
Family Court Building (Kapuaiwa)
Ft. Shafter Elementary School

FAMILY COURT

| | |
|-------------------------------|------------------------------------|
| Highlands Intermediate School | Wahiawa Community Hospital |
| Housing project | Wahiawa Intermediate School |
| Kaala Elementary School | Waianae Elementary School |
| Kahaluu Elementary School | Waianae Police Station |
| Kahaluu Playground | Waikiki Aquarium |
| Kainalu Elementary School | Waimano Training School & Hospital |
| Kaimiloa Elementary School | Waipahu Intermediate School |
| Kaneohe Elementary School | Waipahu Recreation Center |
| Kokokahi YWCA | Wheeler Elementary School |
| Maoanlua High School | Windward YMCA |
| Makalapa Elementary School | Honolulu Court House |
| Nanakuli High School | Kalakaua Intermediate School |
| Pearl Ridge Elementary School | Hawaiian Humane Society |
| Puohala Elementary School | Foster Gardens |
| Queen's Hospital | Kailua Elementary School |
| St. Mark's Lutheran Church | |

DISTRICT COURT, FIRST CIRCUIT

| | |
|--|--|
| Ala Moana Beach Park | Hale Kipa - Help for Runaways |
| Alcoholism Service Center | HARC - Project Group Homes - Enchanted Lake Home |
| Atherton YMCA | HARC - Project Group Homes - Kailua Home |
| Church of Latter Day Saints - Laie Fourth Ward | HARC - Project Group Homes - Kaimuki Home |
| DLNR - State Parks Division | Hawaii Bound |
| DSSH - Volunteer Services Program | Health Department - Children & Youth |
| Diamond Head Mental Health Clinic | |

DISTRICT COURT, FIRST CIRCUIT

| | |
|-------------------------------------|--|
| Honolulu Parks & Recreation | Waipahu Recreation Center |
| Institute for Human Services | Volunteer Information & Referral Service |
| Kailua Recreation Center | Waianae Elementary School |
| Kailua Recreation Pool | Brigham Young University |
| Kaneohe District Park | YMCA/Camp Erdman |
| Kaneohe District Park Pool | Blessing House |
| Kapiolani Beach Center | Lanikila Crafts |
| Litter Control Program | Waimano Training School & Hospital |
| Magic Island Park | Sacred Hearts Novitate |
| Mental Health Association of Hawaii | Makakilo Park |
| Multiple Sclerosis Society | Nakoa Alii Drums and Bugle Corps |
| Nuuanu YMCA | Sand Island State Parks |
| Red Cross | Liliuokalani Gardens |
| Salvation Army | Kaumakapili Church |
| Salvation Army - Day Care | American Cancer Society |
| Sexual Identity Center | Our Lady of Good Counsel |
| The House | Queen's Medical Center |
| Thomas Square Park | Waianae Comp-Health Center |
| Wahiawa Recreation Center | Kaahumanu Alternative School Institute |
| Waianae-Nanakuli Parks & Recreation | Kamehameha Schools |
| Waikiki Community Center | |
| Waimanalo Beach Park | |

APPENDIX D. PROPOSED GUIDELINES

PROPOSED GUIDELINES

SELECTION AND SENTENCING CRITERIA

A. OFFENDER SELECTION CRITERIA

The following grounds, while not controlling the discretion of the court, may be accorded weight in favor of a disposition providing a minor or adult person to work a specified number of hours performing service deemed to be of mutual benefit to both the defendant and the community as a whole or to a governmental agency or benevolent or charitable organization or other community service group.

- (1) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime or violation;
- (2) The defendant's delinquent or criminal conduct was the result of circumstances unlikely to recur, i.e., nature of offense is situational or accidental;
- (3) The defendant's criminal conduct neither caused nor threatened serious harm;
- (4) The defendant did not contemplate that his criminal conduct would cause or threaten serious harm;
- (5) The character and attitudes of the defendant indicate that he is unlikely to commit another crime;
- (6) The defendant is particularly likely to respond affirmatively to the performance of community service work;
- (7) The performance of community service work is reasonably related to the rehabilitation of the defendant;
- (8) The imposition of a sentence condition to perform community service as to probation or suspension of sentence or probation is deemed necessary to insure that he will lead a law-abiding life or is likely to assist him to do so.

When the court imposes sentence on a person who has been convicted of a crime or violation, the nature and circumstances of the crime and the history, character and condition of the defendant are factors which assist the court in determining: 1) the extent of the future danger threatened by the defendant's continued presence in open

society; and 2) a court disposition that is the least restrictive for the defendant. In order to avert community service sentencing from becoming a "dumping ground" for the chronically dysfunctional defendant for whom confinement or other restrictive sentences is deemed more appropriate, the following class and categories of sentences may be excluded from a sentence to community service:

- (1) All class A felonies;
- (2) Offenses which cause or threaten to cause bodily injury or serious bodily injury or recklessly inflicts serious bodily injury;
- (3) Offenses which involve conspiracy or solicitation to kill or injure another;
- (4) Nonprobationable offenses for which imprisonment is mandatory;
- (5) The commission of offenses in which a firearm was used.

B. CRITERIA FOR IMPOSITION OF SENTENCE

The exercise of discretion by different judges in the imposition of sentences to community service cannot be expected to lead to precisely uniform sentences. Distinctions in the number and variety of circumstances surrounding a sentence to community service may be drawn with each defendant resulting in potential anarchy in sentencing. The following guidelines, while not controlling the discretion of the court may be accorded weight in setting upper limits for each class of offense.

- | | | |
|-----------------------------|-----|-------|
| (1) Class B Felony | 200 | hours |
| (2) Class C Felony | 100 | " |
| (3) Misdemeanor | 50 | " |
| (4) Petty Misdemeanor | 25 | " |
| (5) Violation | 10 | " |

END