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REPORT ON CLIENT SPECIFIC PLANNING
A STUDY OF THE NORTH CAROLINA OFFICE OF THE
NATIONAL CENTER ON INSTITUTIONS AND ALTERNATIVES

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I. Introduction

This study was commissioned by the Z. Smith Reynolds Foundation Inc. in anticipation of the passage of the Community Penalties Bill (H.B. 830) and the expected distribution of funding under the proposed bill by the Department of Crime Control and Public Safety. The study was designed to produce an evaluation of Client Specific Planning, a sentencing planning service provided by the North Carolina office of the National Center on Institutions and Alternatives (NCIA) in Fayetteville. In addition to a general assessment of the quality of NCIA's work, the Foundation also sought the answers to three specific questions:

1. But for the involvement of NCIA and the submission to the sentencing court of a Client Specific Plan, would the sentence received by the defendant have been harsher in terms of jail or prison time?
2. To what extent have defendants who have been sentenced in accordance with Client Specific Plans actually complied with the terms and conditions of those plans, and how does the performance of these

defendants generally compare with that of other probationers?

3. How and where does the concept of Client Specific Planning best fit into North Carolina's existing criminal justice system?

This report begins with a brief history of Client Specific Planning and NCIA's Fayetteville Office. It then describes the research design and discusses in detail the results of the survey undertaken to answer the questions posed above. The report concludes with an overall assessment of Client Specific Planning and some observations about the future of this program in North Carolina.

II. Background

The National Center on Institutions and Alternatives was founded in 1977 as a private, non-profit organization concerned with criminal justice reform. Its main office is now in Alexandria, Virginia, and it works with affiliates in several cities across the United States. NCIA's major undertaking to date has been the development of Client Specific Planning. This service involves the preparation, at the request of defense attorneys, of alternative sentencing plans. These plans are usually presented to the Court at the time of sentencing, although occasionally they are used at parole and sentence reconsideration hearings and in plea bargaining. NCIA tailors each plan to the

individual client, and a proposed alternative sentence typically consists of several components, such as community service, financial restitution, residential treatment, job training, out-patient counseling, and occasionally, in very serious cases, a period of incarceration to be followed by a combination of some or all of the above alternatives.

Unlike many so-called "alternative sentencing" programs, NCIA claims to take great care in assuring that it accepts as clients only those defendants who, but for NCIA intervention, would be likely to be sentenced to incarceration. NCIA charges fees on a sliding scale, and uses income from full-fee paying clients and support from The Edna McConnell Clark Foundation to offset costs in its low and no fee cases.

In late 1981, The Edna McConnell Clark Foundation awarded a grant to the National Legal Aid and Defender Association (NLADA) to enable it and NCIA to provide sentencing planning and advocacy services to indigent defendants. Under this grant, affiliate offices of NCIA were established in West Palm Beach, Florida; Lincoln, Nebraska; and Fayetteville, North Carolina.

The North Carolina office opened in January, 1982 and is located at 214 F Dick Street in Fayetteville. It is staffed by a Director (Elizabeth Harbourt), a secretary and six part-time case developers. As of this writing, it has received 119 referrals, of which 17 were fee producing cases

from private attorneys, 101 were public defender cases, and 1 was a pro se request by an inmate for assistance in a parole hearing. Plans have been developed and presented to court in 73 of these cases. Of these, NCIA reports that the sentencing court substantially or fully adopted 59 and rejected 14 Plans. Twenty-two cases were dropped, and twenty-four are still pending.

III. Research Design

The design for this survey was patterned on a study by Silbert, Feeley and Associates, Inc. (Malcolm M. Feeley, Principal Investigator) of Client Specific Planning cases in the metropolitan Washington, D.C. area.¹ That study, commissioned by The Edna McConnell Clark Foundation, sought to determine whether or not NCIA's plans resulted in non-custodial alternative sentences for offenders who otherwise would have received jail or prison terms, and whether those serving such alternative sentences under the plans were in compliance with the conditions ordered by the court. Eighty plans which had been submitted and accepted by the court during 1981 were used as the sample for that survey.

NCIA's impact on keeping offenders out of prison in North Carolina was assessed through interviews with the judge, defense attorney, prosecutor and probation officer who handled each case selected for study. Information about

compliance with conditions of sentences was obtained through interviews with those individuals who were identified as supervisors of principal components of the plans. The interview questionnaires used in the metropolitan Washington, D.C. study were modified for use in the Fayetteville survey.

The sample of cases for the North Carolina study included all referrals during 1982 which were also disposed of during that same year. Of these forty-five cases, plans were submitted in thirty-three.² Twenty-eight of these plans were designated by NCIA as accepted or substantially accepted by the Court. The balance were considered rejections.

We personally interviewed the eight judges who imposed sentence in the thirty-three cases in which plans were presented. We also interviewed the ten District Attorneys who were involved in the prosecution of these cases. We interviewed the two private Defense Attorneys and seven Public Defenders who represented all the defendants in the sample. We also spoke with the thirteen Probation Officers who supervised the twenty-eight defendants whose plans were accepted. Almost all of these interviews were conducted in person, with the remaining few done by telephone.

Telephone interviews were conducted with the people designated as the key supervisors or third party advocates for the defendants whose plans were accepted. The questions

asked of these people were substantially different from those asked the previous four groups, focusing on the specific issue of compliance. Also consulted were Elizabeth Harbourt, Director of the North Carolina Office of NCIA, Herbert Hoelter and Leonard Berman of NCIA's national office, and Malcolm Young of the National Legal Aid and Defender Association in Washington.

To answer questions about the future of Client Specific Planning in North Carolina, we asked the judges, prosecutors, defense attorneys and probation officers whether or not they thought the concept of Client Specific Planning should be expanded, and, if so, what form that expansion should take. We also asked whether exposure to Client Specific Planning had changed their attitudes toward alternatives to incarceration. Finally, these individuals were asked to rate the quality of NCIA's work in each of the cases in which they were involved.

The services of the Principal Investigator for this study, Jonathan E. Silbert, were made available by The Edna McConnell Clark Foundation, to whose Justice Program he is a consultant. He worked on the Washington, D.C. study described above and has provided the Clark Foundation with periodic assessments of Client Specific Planning over the past four years. The interviews were conducted by Jonathan Abady and Martha Allerton, students in the Washington, D.C. area who had been working as summer interns in NCIA's

national office. Funds for necessary travel were provided by the North Carolina Citizens Commission on Alternatives to Incarceration.

The results of the survey are summarized in the sections which follow.

IV. The Sample Cases

The thirty-three cases in which Plans were submitted to the court and which were disposed of in 1982 comprised the sample. Fourteen of the plans were incorporated into the sentence virtually intact. In ten cases, the Court accepted the Plan, but eliminated or reduced some of the conditions, primarily those relating to restitution or community service. In four cases, the court generally accepted the Plan, but imposed some amount of incarceration.³ The Court rejected four other Plans outright, imposing substantial active sentences. In one case, the Court rejected the Plan on the grounds that it was too strict and imposed instead a straightforward suspended sentence with probation, fine, court costs and attorney's fees. The dispositions in the sample cases are summarized in the table which follows:

TABLE I

Dispositions of Sample Cases

Plan Accepted in its entirety	14	(42%)
Plan Accepted, but with somewhat less stringent conditions	10	(32%)
Plan Accepted, but with somewhat more stringent conditions	4	(12%)
Plan Rejected; substantial incarceration imposed	4	(12%)
Plan Rejected; suspended sentence imposed	1	(3%)
Total	33	(100%)

The twenty-eight defendants in the sample whose plans were accepted, in whole or in substantial part, were originally charged with a total of 163 separate counts, or a mean of nearly six counts each. Five were charged with a single count and seven with ten or more counts, with three counts being the mode. Charges ranged from assault with a deadly weapon with intent to inflict serious injury, sale of drugs, robbery, burglary and larceny to multiple counts of Medicaid, AFDC and welfare fraud, multiple serious motor vehicle charges, forging and uttering, etc. In only a few cases were there charge reductions. All defendants in the sample were convicted by plea of guilty; none of the cases involved trials.

V. But for the involvement of NCIA and the submission to the sentencing court of a Client Specific Plan, would the sentence received by the defendant have been harsher in terms of jail or prison time?

Evaluations of "alternative sentencing programs" have been rightly concerned that such programs may "widen the net" of social control by placing additional restrictions on people who would receive sentences of probation anyway, rather than providing true alternatives to individuals who otherwise would have received active sentences of confinement. To test whether NCIA cases were truly prison-bound, we asked the judge, district attorney, defense attorney and probation officer involved in each case to consider whether the sentence in that case would have been harsher, the same or more lenient, in terms of incarceration, if a Client Specific Plan had not been presented. Defense Attorneys felt overwhelmingly that their clients would have been more harshly treated had no Plan been presented. District Attorneys and Judges also believed that many or most defendants would have been treated more harshly had they not had the benefit of Client Specific Planning. Probation Officers, on the other hand, tended to feel that the sentences would not have been much different.

Table II, below, arrays the responses of these officials to this question:

TABLE II

In terms of jail or prison time, do you think the sentence in this case would have been harsher, the same or more lenient if a Client Specific Plan had not been presented?

	Judges	District Attorneys	Defense Attorneys	Probation Officers ⁴
Probably Harsher	13 (46%)	16 (57%)	24 (86%)	9 (33%)
Probably About the Same	9 (32%)	4 (14%)	4 (14%)	14 (52%)
Probably More Lenient	1 (4%)	1 (4%)	0 (0%)	4 (15%)
Don't Know/Don't Recall	5 (18%)	7 (25%)	0 (0%)	0 (0%)
Total	28 (100%)	28 (100%)	28 (100%)	27 (100%)

The table suggests that many or most defendants would have been more harshly treated had they not had the benefit of Client Specific Planning.⁵ NCIA records, however, indicate that incarceration was actively sought by the prosecution in only eight of the twenty-eight cases in which the Court sentenced substantially in accordance with the Plan.⁶ Nevertheless, we are confident in concluding that a majority of the defendants in this sample would have received active prison terms without NCIA's services, and that the submission of a Client Specific Plan made the difference in the outcome. Client Specific Planning is thus an effective technique for bringing about the imposition of alternative sentences in cases in which active prison terms would have been the norm.

It is also significant that many judges, prosecutors, defense attorneys and probation officers reported themselves to be more willing to consider alternatives to incarceration in serious jail or prison bound cases following their exposure to Client Specific Planning. Only a few probation officers reported themselves as less willing to consider alternatives as a result of their experience with Client Specific Planning.⁷

The table which follows arrays the responses to this question:

TABLE III

In general, as a result of your experience in this case, are you now more or less willing to consider alternative sentences for offenders who otherwise are likely to be sentenced to jail or prison?

	Judges	District	Defense	Probation
	Attorneys	Attorneys	Attorneys	Officers
More Willing	4 (50%)	5 (50%)	9 (100%)	3 (23%)
Less Willing	0 (0%)	0 (0%)	0 (0%)	3 (23%)
<u>No Difference</u>	<u>4 (50%)</u>	<u>5 (50%)</u>	<u>0 (0%)</u>	<u>7 (54%)</u>
Total	8 (100%)	10 (100%)	9 (100%)	13 (100%)

VI. To what extent have defendants who have been sentenced in accordance with Client Specific Plans actually complied with the terms and conditions of those plans, and how does the performance of these defendants compare with that of other probationers.

Financial restitution to a victim was made a condition of probation in twenty-one of the twenty-eight cases in the sample. Records of restitution payments are maintained by the Clerk of the Cumberland County Court, who provided data showing the total amount paid and date of last payment for each defendant. Table IV, below, summarizes this information:

TABLE IV

<u>Financial Restitution</u>		
Substantial Compliance ⁸	9	(42%)
Nominal Compliance	6	(29%)
<u>No Record of Compliance</u>	<u>6</u>	<u>(29%)</u>
Total	21	(100%)

In each case where a sentence substantially in accordance with the Client Specific Plan was imposed, we attempted to interview the individual or individuals indicated as key supervisors and/or third party advocates. In one case, no such individual had been designated. In another case, shortly after the imposition of sentence, the defendant concluded that she did not wish to attempt to perform the conditions of the plan, and she asked the court to impose an active sentence. We were successful in interviewing a total of forty-four key supervisors and

third-party advocates who were responsible for the remaining twenty-six cases. We particularly sought to determine the defendants' degree of compliance with the Plans' community service components. We also asked for an overall rating of the defendants' performance since sentencing.

Community service was a condition of the sentence in twenty-three of the sample cases. In general, the interviews suggest that although most of these defendants performed some amount of community service, very few have completed their court-ordered assignments. Almost one-quarter of the defendants who were ordered to do community service have done none at all, and close to half have worked only a nominal fraction of their assigned hours. Table V, below, arrays the responses.

TABLE V

<u>Community Service</u>		
Full Compliance ⁹	3	(13%)
Substantial Compliance	5	(22%)
Nominal Compliance	10	(44%)
<u>No Compliance</u>	5	(22%)
Total	23	(100%)

Tabulation of the supervisors' and third-party advocates' overall ratings of the defendants was complicated somewhat by the facts that there were two such individuals in eighteen of the cases, and that often the perceptions of

the two individuals involved were quite different. For purposes of tabulation, we have used a single, averaged grade when two persons were interviewed about the same case. The table which follows summarizes the results:

TABLE VI

Overall Rating of Clients By Key Supervisors
and Third Party Advocates

A	(<u>Excellent</u>) (always meets all responsibilities promptly)	3	(11%)
B	(<u>Good</u>) (generally meets responsibilities, but may need prompting)	9	(32%)
C	(<u>Adequate</u>) (keeps in contact but misses obligations, needs prompting)	5	(18%)
D	(<u>Poor</u>) (needs constant reminding, misses obligations regularly, drags along)	4	(14%)
F	(<u>Failure</u>) (does nothing or next to nothing, is unresponsive to reminders, hard to contact)	1	(4%)
	UNABLE TO GRADE	4	(14%)
	OTHER ¹⁰	<u>2</u>	(7%)
	TOTAL	28	(100%)

We asked the probation officers who supervised defendants sentenced in accordance with Client Specific Plans to compare the performance of these defendants with that of other probationers. The Table which follows summarizes their answers:

TABLE VII

In general, have your probationers who have been sentenced in accordance with Client Specific Plans complied with the terms of their probation to a greater extent, to the same extent, or to a lesser extent than your other probationers?

Compliance to a Greater Extent	2	(16%)
Compliance to the Same Extent	5	(38%)
Compliance to a Lesser Extent	5	(38%)
Other or Don't Recall	1	(8%)
Total ¹¹	13	(100%)

In general, we conclude that there are problems in the monitoring and enforcement of compliance with the conditions of Client Specific Plan sentences. Although a majority of Client Specific Planning clients perform as well or better than the average probationer, the degree of compliance by a significant percentage of Client Specific Planning clients is below the average. This in itself is not surprising, given the fact that Client Specific Planning clients, considered to be "prison-bound" almost by definition, are probably likely to be more difficult to supervise than more traditional probationers. Only rarely, however, is there substantial compliance with those particular conditions, such as community service and financial restitution, that distinguish Client Specific Plans from more conventional suspended sentences with probation supervision.

Moreover, failure to comply tends to go unreported to the Court, or at least unpunished.¹²

These findings, however, do not necessarily suggest that NCIA is at fault. Its mission is to assist defense attorneys with the development and advocacy of a non-incarcerative sentence. NCIA does not represent itself as an enforcement agency. Nevertheless, it is clear that if Client Specific Planning is to have a meaningful impact on sentencing practices and prison overcrowding, a mechanism that insures that the special terms and conditions of probation are being fulfilled must be implemented. Imposition of an alternative sentence is only half the battle. For Client Specific Planning to become a legitimate and institutionalized part of the criminal justice scene, all parties---judges, district attorneys, defense attorneys, probation officers, supervisors and defendants---must know that each element of the sentence will be enforced and that non-compliance will be dealt with sternly.

V. How and Where Does the Concept of Client Specific Planning Best Fit into North Carolina's Existing Criminal Justice System?

Judges and defense attorneys strongly favored the expansion of Client Specific planning throughout North Carolina. Half the district attorneys surveyed agreed, and another twenty percent thought that the service should be continued, but at about the same level. None thought that it should be curtailed, and the remaining thirty percent expressed no opinion. Three of the probation officers

recommended reducing or eliminating Client Specific Planning, but more than half favored its expansion. The table which follows arrays the responses on this issue:

TABLE VIII

Do you think that an effort should be made to make Client Specific Planning services more generally available through the state?

	Judge	District Attorney	Defense Attorney	Probation Officer
YES, should be expanded	7 (88%)	5 (50%)	9 (100%)	7 (54%)
NO, should be kept about the same	0 (0%)	2 (20%)	0 (0%)	0 (0%)
NO, should be reduced	0 (0%)	0 (0%)	0 (0%)	3 (23%)
DON'T KNOW/NO OPINION	1 (12%)	3 (30%)	0 (0%)	1 (8%)
OTHER	0 (0%)	0 (0%)	0 (0%)	2 (15%)
TOTAL	8 (100%)	10 (100%)	9 (100%)	13 (100%)

There was less agreement about where Client Specific Planning fits into North Carolina's criminal justice system. Judges generally favored placing the service within the Probation Department, but probation officers themselves expressed a slight preference for keeping it within a private agency, as is currently the case. Both district attorneys and defense attorneys strongly preferred a private agency. A small minority of respondents suggested one or a combination of other state and private agencies, including

the public defender's office, department of corrections and district attorney's office. The table which follows arrays the responses to this question:

TABLE IX

Given the nature and organization of the North Carolina criminal justice system, what do you think would be the best way or ways to deliver Client Specific Planning services?

	Judges	District Attorneys	Defense Attorneys	Probation Officers
Private Agency	3 (37%)	7 (70%)	8 (89%)	4 (31%)
Public Defender Office	0 (0%)	0 (0%)	0 (0%)	1 (8%)
Probation Department	5 (63%)	2 (20%)	0 (0%)	3 (23%)
District Attorney	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Other State Agency	0 (0%)	0 (0%)	0 (0%)	2 (15%)
Other	0 (0%)	1 (10%)	1 (11%)	3 (23%)
Total	8 (100%)	10 (100%)	9 (100%)	13 (100%)

VI. Conclusions

We asked the principal criminal justice officials involved in each case we studied to assess the overall quality of the Client Specific Plan and the work of the NCIA representative. Especially when those responses listed under "don't know/don't recall" are put aside, the results are strongly supportive of both NCIA and Client Specific Planning. The table which follows arrays the responses:

TABLE X

In retrospect, how do you assess the Client Specific Plan and the work of the NCIA representative in this case -- Excellent, Fair, Poor?

	Judges		District Attorneys		Defense Attorneys		Probation Officers	
Excellent	24	(83%)	12	(43%)	25	(89%)	9	(33%)
Fair	0	(0%)	3	(11%)	0	(0%)	3	(11%)
Poor	0	(0%)	0	(0%)	0	(0%)	1	(4%)
Don't Know/Don't Recall	1	(4%)	10	(35%)	1	(4%)	7	(26%)
Other ¹³	3*	(11%)	3**	(11%)	2***	(7%)	7****	(26%)
Total	28	(100%)	28	(100%)	28	(100%)	27*****	(100%)

Our findings on this and other questions are consistent with those of the Washington, D.C. survey described earlier in this report as well as less formal evaluations of the Fayetteville and other NCIA affiliates. All these studies show Client Specific Planning to be an effective vehicle for proposing an articulate sentencing plan that, to the extent possible, replaces incarceration with alternative forms of punishment. NCIA has consistently reported high rates of acceptance of its plans by the courts, and Fayetteville is no exception. The available studies also show that the defendants whose cases are referred to NCIA are likely candidates for incarceration. The officials closest to the cases agree that were it not for the Client Specific Plans,

most defendants would have been more harshly treated in terms of jail or prison time. With many members of the judiciary clearly aware of the prison overcrowding problem and in search of satisfactory alternatives to incarceration, Client Specific Planning addresses an important need.

The judges' responses highlighted another need met by Client Specific Planning. Judges value NCIA's work not only for the alternatives it proposes but also for the personal information about the defendants it presents. North Carolina law authorizes the preparation by the Department of Probation of a presentence investigation upon request of the judge. In practice, however, this is apparently rarely done. Independent of the outcome, Client Specific Planning thus contributes to a better informed sentencing decision.

Many probation officers expressed the opinion that they could undertake the functions now being performed by NCIA. Unlike the probation department, however, NCIA openly and unabashedly favors non-incarcerative sentences. The Client Specific Plan is a document designed to be used by an advocate, a defense attorney, and it does not pretend to be a neutral source of information. Most probation officers would probably feel uncomfortable in this role. Thus, although an increase in the use of probation-prepared presentence investigations could improve the amount and quality of information taken into account by the sentencing

judge, this would not be a substitute for the expansion of Client Specific Planning.

With regard to the issue of compliance, Fayetteville's experience is also similar to that of other jurisdictions in which Client Specific Planning has been examined. While NCIA provides a system for monitoring the performance of the defendants in its plans, enforcement is left to probation officers. Enforcing the additional sentence components included by NCIA, however, will certainly require more resources than the Department of Probation has at its disposal, especially if Client Specific Planning is expanded in North Carolina. Monitoring currently tends to be lax, and formal violations of probation are initiated primarily only as the result of subsequent arrest and conviction, not failure to perform community service or to make financial restitution.

Yet, it is in the interest of Client Specific Planning as well as the criminal justice system as a whole that the conditions of alternative sentences be vigorously enforced. The concept of sentencing planning will quickly lose its legitimacy if the Plans are perceived as empty promises.

Most of the criminal justice professionals we surveyed respect Client Specific Planning and believe that it performs a useful service. The continued use of Client Specific Planning will inevitably lead to better informed sentencing decisions based on consideration of comprehensive

personal information viewed in the context of a variety of sentencing options.

It would appear prudent, however, to couple any expansion of this service with funding for some kind of intensive probation supervision that would permit adequate enforcement of the terms and conditions of the Plans. We understand that North Carolina is for the first time considering the implementation of an intensive supervision program under the aegis of its Probation Department. North Carolina thus has a unique opportunity to foster a controlled expansion of the concept of Client Specific Planning along with a mechanism to insure a satisfactory level of compliance, and to provide for an evaluation of any such expansion.

A judge who knows that his sentence, although somewhat innovative, will be vigorously enforced, is more likely to impose an alternative sentence than is one with doubts about the likelihood that the defendant will be made to perform his responsibilities. Although such a development may expose more failures and lead to more violations of probation, the overall result will be better administration of non-custodial sentences for more defendants who would otherwise have been incarcerated.

FOOTNOTES

¹ Feeley, Malcolm M. and Debra Kelley, Report on Client Specific Planning: A Project of the National Center on Institutions and Alternatives, April 1, 1983 (unpublished).

² A total of sixty cases had in fact been referred during 1982, with fifteen still open at the end of the year. The twelve cases which were dropped without a Plan having been submitted were about equally divided between defendants who preferred a plea-bargained sentence which included some confinement to the demands of the proposed Plan, and those whose attorneys were able to negotiate a straightforward suspended sentence without using a Plan.

³ In one of these cases, the court imposed a term of ten days, in another, one weekend in jail, and in a third, eight Sunday nights in jail. Only one of the cases involved any substantial period of confinement. In that case, NCIA recommended a sentence suspended after 90 days, whereas the prosecution had urged the three year presumptive sentence on each of several counts. The court in fact imposed a sentence suspended after 180 days of confinement and adopted most of the remaining elements of the Plan.

⁴ Excludes one case in which, after a sentence incorporating the Client Specific Plan was imposed, the defendant elected to be incarcerated rather than be placed on probation and perform the conditions prescribed in the Plan. Figures refer to number of cases, not number of interviewees.

⁵ The National Legal Aid and Defender Association has completed a study of the three project sites, including Fayetteville, established pursuant to the Clark Foundation grant. This study suggests that a somewhat lower percentage of North Carolina Client Specific Planning referrals were prison-bound than in West Palm Beach and Lincoln. See Young, Malcolm C., Results from the Alternative Sentencing/Sentencing Advocacy Project 1982, National Legal Aid and Defender Association (Washington D.C.: 1983). Using a formula based on seriousness of offense and previous criminal record, this study concluded that sixty-three percent of the cases referred to the Fayetteville office in 1982 were "prison bound". Figures for the West Palm Beach and Lincoln were ninety-one percent and eighty percent, respectively.

For purposes of comparison, the results of the interviews in the Washington, D.C. survey were as follows:

	Judges	District Attorneys	Defense Attorneys
Probably Harsher	53%	52%	63%
Probably The Same	47%	48%	27%
Probably More Lenient	0%	0%	0%

Probationers Officers were not interviewed in the Washington survey.

⁶ Prosecutors made no recommendation in six cases, supported the Client Specific Plan in five cases, and recommended straight suspended sentences in four others. We are unable to determine what, if any, recommendation was made in the remaining five cases in this sample. These figures suggest that prosecutors viewed fewer than half the defendants in this sample as candidates for incarceration. Fayetteville attorneys, however, appear to use Client Specific Plans in plea negotiations to a much greater extent than do their brethren in West Palm Beach and Lincoln. Many prosecutors apparently agreed to support the Plan or to make no recommendation after having their opinions about the defendant changed as a result of such negotiations.

⁷ Our interviews with probation officers revealed resentment of NCIA, based predominantly on the perception that NCIA was performing tasks that probation officers could do as well or better. Probation officers frequently complained about lack of contact between NCIA and their department during the preparation of a Plan. Better communication between these two agencies should ease some of this tension and encourage a more supportive probation department.

⁸ "Substantial Compliance" means that a defendant has made reasonably regular payments and/or is close to completing restitution. "Nominal Compliance" includes cases where one or two small payments were made, but no subsequent payments were made for several months and/or the payments which have been made total less than ten percent of the amount due. "No Record of Compliance" includes six cases in which the Clerk's office had no record of the making of any restitution payments since the date of sentencing.

⁹ "Full Compliance" means that the defendant has completed the assigned number of hours of community service.

"Substantial Compliance" means that the defendant is

performing community service regularly and that, if performance continues at the same pace, the assignment will be completed on schedule. "Nominal Compliance" includes cases in which the defendant reported to his or her assignment no more than once or twice and/or has worked less than ten percent of the hours ordered. "No Compliance" means that the defendant performed no community service whatever.

¹⁰"Other" includes one client who elected to serve time rather than perform the conditions of her plan, and one where no supervisor was designated in the Plan.

¹¹Total of 13 reflects the number of probation officers, some of whom supervise more than one defendant sentenced in accordance with a Client Specific Plan.

¹²We did not ask probation officers specific questions about the performance of individual probationers with respect to the components of the Plans out of concern that our questions could encourage some probation officers to initiate violation proceedings. Records maintained by the Clerk of the Court were clearly inadequate for determining the existence of probation violations, often failing to include even conviction information on the underlying offenses. Anecdotal evidence, however, suggests that no probation violation proceedings were initiated for failure to perform community service or to make restitution.

¹³*includes one "good" and two "plan too harsh". **includes two "plan good but too tough". ***includes one "good", one "good but over-stated defendant's drug problem". ****includes three "good" and four "well prepared but too ambitious and rigorous". *****excludes one case in which, after a sentence incorporating the Client Specific Plan was imposed, the defendant elected to be incarcerated rather than be placed on probation and perform the conditions prescribed in the plan.