

THE INFLUENCE OF PROBATION OFFICER RECOMMENDATIONS
ON ACTUAL SENTENCING DECISIONS

by

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ABSTRACT

The sentencing process is one of the most important phases in the criminal justice process. During this stage, the type, severity, and duration of control a convicted offender will endure is determined. Prior to sentencing, the judge often times will order a presentence investigation report which is prepared by a probation officer. This report provides the judge with pertinent information regarding the offender and offense itself. In some departments, a sentencing recommendation is submitted by the probation officer in the presentence report. One would expect judges, having little knowledge about the offender or offense itself, to view recommendations from the probation officer as important guideposts in their judicial decision making. Furthermore, one would expect a high level of agreement between probation officer's recommendations and actual sentences imposed.

The research examined the relationship between probation officer's recommendations and judges actual sentencing decisions in the Seventh Judicial District, Department of Correctional Services, Davenport, Iowa.

Document analysis and the testing of hypotheses were used to determine this relationship. Interviews with various judges, county attorneys, and probation officers, coupled with a Likert Scale Questionnaire attempted to determine factors which influenced decision making of the aforementioned respondents.

This study found a statistically significant relationship between probation officer's recommendations and judges actual sentencing decisions. The factors that were most influential in the respondent's decision making were the offender's criminal history and seriousness of present offense. Furthermore, some judges viewed the recommendation submitted by the probation officer as influential in their decision making.

APPROVAL PAGE

This thesis by John Zielke is accepted in its present form by the Department of Law Enforcement Administration of Western Illinois University as satisfying the thesis requirement for the degree Master of Arts.



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TABLE OF CONTENTS

	Page
ACKNOWLEDGMENTS.....	ii
LIST OF TABLES.....	iv
CHAPTER	
1. INTRODUCTION.....	1
2. LITERATURE REVIEW.....	10
3. METHODOLOGY.....	58
4. ANALYSIS OF THE DATA.....	65
5. SUMMARY AND CONCLUSIONS.....	102
APPENDIX.....	117
WORKS CITED.....	119

LIST OF TABLES

TABLE	PAGE
1. MEAN SCORES OF VARIABLES FROM LIKERT SCALE QUESTIONNAIRES.....	66
2. AGREEMENT RATE BETWEEN PROBATION OFFICERS AND JUDGES-CONTROLLED FOR VARIABLE OF MANDATORY SENTENCES.....	97
3. AGREEMENT RATE BETWEEN PROBATION OFFICERS AND JUDGES-CONTROLLED FOR VARIABLES OF MANDATORY SENTENCES AND THOSE OFFENDERS WITH NO PRIOR CRIMINAL RECORD.....	98
4. AGREEMENT RATE BETWEEN PROBATION OFFICERS AND JUDGES-CONTROLLED FOR VARIABLES OF MANDATORY SENTENCES AND THOSE OFFENDERS WITH A PRIOR CRIMINAL RECORD.....	101

Chapter I

Introduction

Imposing sentences is one of the most important steps in the criminal justice process. This phase determines the type, severity, and duration of control the convicted offender will endure. The courts, in determining a sentence, would like as much factual information regarding the defendant as possible. Up to the point of sentencing, however, the judge has very little information about the convicted offender. In fact, there are times when the court may not even know all the relevant information pertaining to the offense itself (Campbell, 1990). This problem can be solved by providing the court with a presentence investigation report.

According to "The Code of Iowa 1992," Chapter 901.2,

"The purpose of the presentence report by the judicial district department of correctional services is to provide the court pertinent information for purposes of sentencing and to include suggestions for correctional planning for use by correctional authorities subsequent to sentencing."

Other purposes of the presentence report are to assist the prison institutions in their classification and

treatment programs and also in their release planning, to furnish the Board of Parole with information pertinent to its consideration of Parole, to aid the probation officer in his/her rehabilitative efforts during probation and parole supervision and to serve as a source of pertinent information for systematic research (Killinger and Cromwell, 1974). In the Seventh Judicial District in Iowa, specifically Scott County, these reports are prepared by probation officers who are employed by the Department of Correctional Services. It should be noted that the probation officers are employed by the state while the court personnel, including the judges and prosecuting attorneys, are employed by the county.

There are certain conditions under which presentence reports are to be written. "The Code of Iowa 1992," Chapter 901.2, states that:

"Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgement of conviction of any public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources. The court shall order a presentence investigation when the offense is a class "B," class "C," or class "D" felony. A presentence investigation for a class "B," class "C," or class "D" felony shall not be waived. The court may order, with the consent of the defendant,

that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated or serious misdemeanor."

The presentence report in Iowa contains vital information about the defendant which helps the court determine an appropriate sentence. The "Code of Iowa 1992," Chapter 901.3, provides the basic factors which should be included in the report. It states:

"When a presentence investigation is ordered by the court, the investigator shall promptly inquire into all of the following: the defendant's characteristics, family and financial circumstances, needs, and potentialities, including the presence of any previously diagnosed mental disorder, the defendant's criminal record and social history, the circumstances of the offense, the time the defendant has been in detention, and the harm to the victim, the victim's immediate family, and the community, and the defendant's potential as a candidate for the community service sentence program established pursuant to section 907.13."

The presentence report in Scott County, Iowa, also contains a "bottom line:" the probation officer's recommendation to the judge regarding the most appropriate sentence for the offender. The statutes do not specifically require a "recommendation" per se in Iowa, however, the "suggestions for correctional planning" is interpreted as such by the Department of Correctional Services. Furthermore, the recommendation submitted by probation officers in Scott County is often

quite general and usually only recommends probation or incarceration.

Although the aforementioned factors regarding the contents of the presentence report are all important in the sentencing recommendation, most studies indicate that criminal record is by far the most significant factor influencing probation officer's recommendations. Prior record is one of the most significant factors influencing judge's decisions as well (Campbell, 1990). As a result, the offender's criminal record will also be a factor in conducting this study.

Once the presentence report and recommendation have been submitted, the court must follow certain guidelines in determining a sentence. Once again, the "Code of Iowa 1992," Chapter 901.5, states:

"After receiving and examining all pertinent information, including the presentence investigation report and victim impact statements, if any, the court shall consider the following sentencing options. The court shall determine which of them is authorized by law for the offense, and of the authorized sentences, which of them or which combination of them, in the discretion of the court, will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others."

At the time fixed by the court for pronouncement of judgement and sentence, the court shall act accordingly:

- 1) If authorized by section 907.3, the court may defer judgement and sentence for an indefinite period in accordance with chapter 907
- 2) If the defendant is not an habitual offender as defined by section 902.8, the court may pronounce judgement and impose a fine.
- 3) The court may pronounce judgement and impose a fine or sentence the defendant to confinement, or both, and suspend the execution of the sentence or any part of it as provided in chapter 907.
- 4) The court may pronounce judgement and impose a fine or sentence the defendant to confinement, or both.
- 5) If authorized by section 907.3, the court may defer the sentence and assign the defendant to the judicial district department of correctional services.
- 6) The court may pronounce judgement and sentence the defendant to confinement and then reconsider the sentence as provided by section 902.4 or 903.2.
- 7) The court shall inform the defendant of the mandatory minimum sentence, if one is applicable.
- 8) The court may order the defendant to complete any treatment indicated by a substance abuse evaluation ordered pursuant to section 901.4A or any other section.
- 9) If the defendant is being sentenced for an aggravated misdemeanor or a felony, the court shall publicly announce the following:
 - a. That the defendant's term of incarceration may be reduced by as much as half of the maximum sentence because of statutory good conduct time, work credits, and program credits.
 - b. That the defendant may be eligible for parole before the sentence is discharged.
 - c. In the case of multiple sentences, whether the sentences shall be served consecutively or concurrently.

Therefore, based on the statutes provided in the Iowa Code 1992, the following sentencing options are available:

Deferred Judgement: the sentence (ie. a specific term of years) is not stated, pronounced or imposed.

Suspend the execution of the sentence: the sentence is stated at the outset but the execution of the sentence

is suspended.

Confinement: total confinement in a correctional facility or jail.

Fine: to sentence a person convicted of an offense to pay a penalty in money.

Split Sentence:

- a) Suspend the execution of any part of the sentence.
- b) Reconsideration of a felon's sentence (shock probation) within ninety days of the date the convicted felon begins to serve a sentence of confinement.

Work Release: partial confinement, in a jail or correctional institution with liberty to go to work, training, or school.

Residential: partial confinement in a residential center or halfway house with liberty to go to work, training or school.

Diversion: a process whereby potential defendants are not prosecuted if they agree to undertake an informal probation program.

Release without Supervision: release on good behavior under either deferred judgement or a suspended execution of sentence without the benefit of formal supervision.

Probation: a formal period of supervision by a probation officer in which the offender must abide by certain conditions of the court (Cromwell, 1985).

Since confinement is the most serious of these sentencing options and results in a loss of freedom and contact with the outside world, there are guidelines which mandate such a sentence. The American Bar Association Standards Sentencing Alternatives and

Procedures states the legitimate reasons for a sentence of total confinement:

- i) confinement is necessary in order to protect the public from further criminal activity by the defendant; or
- ii) the defendant is in need of correctional treatment which can most effectively be provided if he is placed in total confinement; or
- iii) it would unduly depreciate the seriousness of the offense to impose a sentence other than total confinement (Cromwell, 1985).

Since Iowa has an indeterminate sentencing structure, a judge has wide discretion in imposing the previously stated sentencing options such as probation, confinement, or a split sentence. Once the sentence is imposed, the length of confinement an offender will serve is not to exceed a certain number of years. An offender, for example, may be sentenced to confinement not to exceed 5 years. Under these circumstances, an offender would receive day for day good time credit and would not serve over 5 years. With a sentencing structure which gives the judiciary so much leeway in determining a sentence, and with little or no sentencing training for judges, one would expect sentencing recommendations from the probation officer to be important guideposts for judicial decision making. Furthermore, one would expect a high level of agreement

between probation officer's recommendations and the actual sentence imposed.

The previous discussion has given the rationale for some of the questions which will be addressed in this study. How influential are probation officer's recommendations on judge's actual sentencing decisions? What factors do probation officers consider in determining a recommendation? What factors do judges consider in reaching a particular sentencing decision? What factors influence the decision of whether or not a judge concurs with a recommendation? Do probation officers and judges concur on sentences more often when offenders have prior offenses as opposed to those without prior offenses? Finally, are judges more likely to agree with sentence recommendations of probation as opposed to incarceration? Some of these questions will be posed in the form of hypotheses and empirically tested, while the answers of other questions will be sought from previously published literature, interviews of judges and probation officers, and a Likert scale questionnaire.

The first phase of this study will determine the relationship between probation officer's recommendations and judge's actual sentencing decisions. This

relationship will be determined through the testing of hypotheses. The second phase of this study will be exploratory in nature and will attempt to determine factors that influence probation officer recommendations and judge's sentencing decisions. This will be determined from previously published literature, informal interviews, and a Likert scale questionnaire. It is justifiable to study probation officer's recommendations to the court as their decisions may ultimately affect the future lives of thousands of defendants each year and the safety of the community.

Chapter II

Literature Review

Although there has been a great deal of research conducted in the area of probation over the last two decades, studies concerned with presentence investigations and sentencing recommendations have been limited. There have been, however, a number of studies which have directly or indirectly addressed the issue of presentence recommendations.

One of the biggest and most often cited studies in the area of presentence recommendations is known as the Federal Probation San Francisco Project. The study, under a National Institute of Mental Health grant to the University of California School of Criminology, was carried out in the U.S. Probation Office of the Northern District of California. Although the study examined the complete spectrum of federal probation and parole, the facet of main concern for the purposes of this review is the presentence recommendation (Lohman J, Wahl, and Carter, 1966).

The study collected 500 presentence investigations prepared by federal probation officers from September

1964 through August 1965. The recommendations in the San Francisco Project were classified into seven categories, including: 1) No recommendation, 2)Mandatory Sentence, 3) Probation, 4) Fine only, 5) Jail only, 6) Imprisonment, and 7) Deferred Sentence (Lohman, Wahl, and Carter, 1966). The data indicated that probation was recommended in 45 percent of the cases and imprisonment was recommended in 30 percent of the cases (Ibid, 1966). By comparing probation officer recommendations with actual sentences imposed, the results showed that slightly more than 93 percent of the recommendations for probation were accepted by the courts. Furthermore, judges followed the probation officer's recommendations for incarceration 67 percent of the time, and recommendations for imprisonment were followed 86 percent of the time (Ibid, 1966). It is interesting to note that where there were big differences between recommendations made and a judge's sentence, probation officers recommended more punitive sentences than what judges imposed.

In a Canadian study (Gabor and Jayewardene, 1974) a total of 156 English written presentence reports prepared by the Adult Probation Service in Montreal were examined. Results showed that in 67 (42.9 percent) of

the cases, the recommendation of the probation officer was followed. In 57 (36.5 percent) cases, the recommendations were not followed, and in 11 (7.1 percent) they were only partially followed. No recommendations were given in 21 (13.5 percent) of the cases. In 34 of the 57 cases (59.6 percent) where the recommendation was not followed, the judge passed a sentence that was more severe than the one recommended (Gabor and Jayewardene, 1974).

Walsh (1985) conducted a study consisting of a random sample of 416 felony cases processed by 31 probation officers in a metropolitan Ohio county between the years 1978 and 1981. Instead of looking at straight percentages between recommendation and disposition, an interval level of sentence severity and recommendations was developed. With the cooperation of 17 probation officers who wrote some of the reports, the severity of various sentences were given numerical values. Each year of probation, for example, was worth 10 points and each day in the county jail was worth 1 point. Results showed that 83 percent of the variance in sentence severity was accounted for by probation officer's recommendations. Furthermore, when the effects of crime seriousness and prior record were eliminated, the

probation officer recommendation still accounted for 65 percent of the variance in sentence severity (Walsh, 1985). This would appear to indicate that probation officer recommendations in this study significantly affected sentencing decisions.

A more recent study conducted by Campbell, McCoy, and Osigweh (1990), viewed case file records on all persons for whom presentence investigation and recommendation was completed between July 1, 1979 and June 30, 1980. In all, 329 cases from the Eighth Judicial District of Iowa, Department of Correctional Services, were analyzed. First, the cases were divided into two categories. One category consisted of those cases where the offender had a prior record and the second category consisted of those without a prior record. Approximately three-fourths (244) had prior criminal records, while 85 did not. In analyzing those cases with a prior record, 99 out of the 101 (98 percent) cases recommended for probation received that sentence from the judge. Out of the 130 cases recommended for incarceration, however, only 73 (56 percent) received that sentence. In the cases which the offender did not have a prior record, there were no recommendations for incarceration and no actual

sentences of incarceration. Of the 55 cases which were recommended for probation, 27 (54 percent) were given the actual sentence of probation (Campbell, McCoy, and Osigweh, 1990). The remaining cases were given either a fine, split sentence, or deferred sentence.

A study conducted by Rush and Robertson (1987) analyzed 157 presentence reports written in two district courts. One of the goals of this study was to determine the agreement between the final disposition and the probation officer's recommendation. In this study, "agreement" required that the probation officer's recommendation and judge's actual sentencing decision be of the same type, with the actual terms of these sentences ignored since they were not recommended by the probation officer. The authors found an agreement between recommendations and final dispositions in 77% of all cases (Rush and Robertson, 1987).

Carter (1969) conducted a study using 455 cases on which presentence reports were completed by Washington State probation officers between July 1, 1968 and April 30, 1969. Once again, the relationship between probation officer's recommendation and actual disposition was analyzed. Both the recommendation and disposition were categorized in one of three ways: a)

Probation; b) Probation with jail as a condition of probation; and c) Imprisonment. The data revealed that probation officers recommended probation in 64% of the cases, probation with jail as a condition of probation in 22% of the cases, and imprisonment in 14% of the cases. Of the 290 cases recommended for probation, 210 (72%) received the same disposition. Of the 98 cases recommended for probation with jail as a condition of probation, 82 (84%) received the same disposition. Finally, of the 67 cases recommended for imprisonment, only 18 (27%) received the same sentence. The authors pointed out that extreme differences, defined as a probation recommendation and a prison disposition or a prison recommendation and a probation disposition, occurred in 23 of the 455 cases. In 21 of these 23 cases, it was the probation officer recommending imprisonment and the court granting probation (Carter, 1969). The implication may be that the probation officers are more punitive in nature than the judges.

Kingsnorth and Rizzo (1979) reviewed 375 felony cases processed through the superior courts of Western County between March 1 and September 1, 1972. One aspect of the study analyzed probation officer recommendations and actual sentencing decisions. Of the 375 cases, 73

were not used due to lack of data, the case being dismissed prior to final sentencing, the case going to trial, or the case being reduced to a misdemeanor charge. The cases that went to trial were not utilized because one aspect of this study was guilty-plea bargaining. Consequently, only plea-bargained cases were used. Results showed that of the 302 cases which were submitted by probation officers with sentence recommendations for or against imprisonment, 282 or 93% were followed by the judge (Kingsnorth and Rizzo, 1979).

A large research project conducted by Neubauer (1968) analyzed among other aspects of the criminal justice system the relationship between probation officer's recommendations and actual dispositions. The setting for this study was a medium-sized Illinois community with a population of 90,000 people. Neubauer examined 151 cases where the defendant had been found guilty of a felony. Of the 151 defendants, 75 were sentenced to prison and 76 were granted probation. As many authors before him, Neubauer found a strong correlation between probation officer's recommendation and actual disposition, that being a 95% concurrence rate (Neubauer, 1974).

A British study (1972) also examined the

relationship between recommendations made to the court and sentences passed. As part of the research being conducted on community service orders, a sample of social inquiry reports (similar to presentence reports in the U.S.) written on adult offenders charged with a criminal offense was collected from the probation and after care areas of Kent and Nottingham. In Nottingham there were 122 social inquiry reports collected and in Kent there were 90 reports collected. Recommendations were included in 83 percent of the reports in the sample and of the recommendations made 78 percent were taken up by the courts. An interesting finding was that recommendations against probation were less likely to be rejected than any other type of recommendation. Of the 62 reports where the probation officer recommended against probation, only two cases received a sentence which involved probation. It should be noted that the take-up rate of recommendations did not vary between the areas of Kent and Nottingham (Thorpe and Pease, 1976).

Another study which examined the relationship between recommendations (although this time they were from the project's staff and not probation officers) and actual dispositions was conducted by the Vera Institute of Justice in the Bronx Criminal Court. The Bronx

Sentencing Project experimented with the use of short-form presentence reports in high volume misdemeanor courts. Between July, 1968, and October, 1971, the project prepared short-form reports in adult cases where a full presentence report was not ordered by the court. The goal of the Bronx Sentencing Project was to show that a relatively small staff could prepare useful presentence reports after conviction. The project's staff consisted of two persons who conducted 30 minute interviews with convicted misdemeanants. A structured interview questionnaire was used and the information was verified by court records, the telephone, and relatives. Finally, a one page report was submitted which contained the verified information and a sentence recommendation. During the entire study, the overall rate of agreement between the project's recommendation and actual sentence was 86 percent (Lieberman, Schaffer, and Martin, 1972).

Norris (1969) conducted a study which included 387 adult male defendants referred for normal presentence reports by "North County" courts and were written by fourteen probation officers of the Alameda County Probation Department. Overall, the courts followed probation officer's recommendations for straight probation 88 percent of the time, for split sentences 82

percent of the time, and for denials of probation 75 percent of the time (Norris, 1969).

EXPLANATIONS -THEORIES

Now that it has been shown that there is a strong relationship between probation officer's recommendations and dispositions, it is beneficial to determine what theories may explain decisions by probation officers and judges. These decision-making theories may in turn help explain the high relationship between recommendation and actual sentences.

Before looking at the specific theories, two possible explanations of the relationship between probation officer and judicial decisions should be looked at. Although they can not be categorized under a particular theory, they are viable explanations. The first is that the judge, having such a high regard for the competence of probation staff, "follows" the recommendation. After all, the probation officer is the one who has the most skill and knowledge in understanding human behavior and knowing the needs of the offender. On the other hand, if a judge is not familiar with or does not have a high regard for a particular probation officer, he may be reluctant to

concur with his recommendation. The second explanation is that there are offenders who are obviously probation or prison cases. As such, judges would have reached the same sentencing decision regardless of the recommendation (Killinger and Cromwell, 1974).

CONFLICT MODEL

The social conflict theory, based on the Marxian model, view modern capitalism as an economic infrastructure that requires a coercive system of criminal justice to preserve the domination of one class by another (Quinney, 1970). As a result, there is a constant power struggle and those in control impose their laws on others whose social status is inferior, in order to gain their control (Frishtik, 1988). The belief with this perspective is that class-linked, extra-legal characteristics play a major role in the court's decision-making.

The probation officer, being an agent of the court, is considered to be a representative of the dominant social stratum. He is viewed as labeling offenders (through his recommendation to the court) as to the appropriate sanction, for non-substantial reasons. It is believed that the probation officer's recommendation stems from the offender's social inferiority.

Consequently, offender characteristics such as economic status, ethnic origin, gender, age, and family status are major considerations in the probation officer's decisions (Frishtik, 1988).

CONSENSUS MODEL

Durkheim's consensus model argues that there is a close correspondence between the widely shared values of a society and the criminal justice system. Furthermore, this system of values is preserved through the even-handed enforcement of laws. The assumption of this perspective is that legally defined offense characteristics play a strong role in decision-making (Hagan, et al., 1979). An aspect of this theory which may explain the relationship between probation officer recommendations and actual sentences is that probation officers in making their recommendations place emphasis on the same factors as does the court in choosing their sentencing alternative. It is quite possible that probation officers and judges share the same legalistic attitudes (Killinger and Cromwell, 1974).

DIAGNOSTIC-REHABILITATIVE MODEL

This model is taken from the "medical model" and assumes the offender is an ill person suffering from psychosocial deficiencies. Moreover, the criminal

should not be punished for his offense which is only a symptom of his illness. The probation service plays an important role in the concept of rehabilitation through the presentence report. This report serves as a guide to the offender's diagnostic needs. According to the rehabilitative-diagnostic model, the probation officer's recommendation in his presentence report should be based on the offender's personal, family, and social characteristics (Frishtik, 1988).

PROTECTION OF PUBLIC

The probation officer, being an agent of the court, cannot ignore the judicial orientation existing in the court system. One of the main aims of punishment is to protect the public. In making his recommendation to the court, the probation officer is often required by judges to consider the protection of the public. The logical conclusion to this orientation is that punishment must be meted out in proportion to the offender's degree of dangerousness to the public. The probation officer can determine this by diagnosing the offender's personal, family, and social characteristics and especially his criminal record which is the best variable for the prediction of recidivism (Frishtik, 1988).

THE INTERACTIONIST PERSPECTIVE

The symbolic interactionist perspective views the administration of justice as a social process which is guided by the control agent's perceptions and definitions of the situations involved (Hagan, 1975). The aspects emphasized in this perspective are the control agent's on-view perceptions and consequent definitions, formed through interaction with clients. The important cues in this process are the perceptions of the suspect's demeanor. The suspect's demeanor may include qualities of cooperativeness, respect, and remorse (Hagan, 1975). According to this perspective, the aforementioned characteristics may be especially important in the decision-making activities of probation officers.

ORGANIZATIONAL THEORY OR MODEL

This approach concentrates on the organizational environment in which decisions are made. According to Blumberg (1967),

"Sociologists and others have focused their attention on the deprivations and social disabilities of such variables as race, ethnicity, and social class as being the source of an accused person's defeat in a criminal court. Largely overlooked is the variable of the court organization itself, which possesses a thrust, purpose, and direction of its own."

An important person to remember in the court setting is the probation officer who maintains contact, and communicates crucial information between all participants in the court process (Hagan, 1975).

Although this theory is often ignored as a possible factor in probation officer and judicial decision-making, the importance of such should not be underestimated. Therefore, a thorough discussion of the bureaucratic nature of the courts is in order. The organizational model can be best explained by describing a phenomena called the "courtroom workgroup" and the goals of such. The courtroom workgroup consists of four goals which are produced by the interaction of the function performed (expressive or instrumental) and the origins of the goals (external or internal to the group) (Eisenstein and Jacob, 1977). Expressive goals serve symbolic functions and give meaning to an activity. Instrumental goals serve material functions and help get things done. Externally oriented goals are imposed by the workgroup's environment while internal goals are produced by the need to share perspectives and sustain the organization itself (Eisenstein and Jacob, 1977).

More specifically, external goals reflect pressures

on the workgroup from outside the immediate bounds of the organization. For example, the police, the media, government agencies, and the general public expect results from the courtroom workgroup. These external or outside groups impose instrumental and expressive goals on the courtroom workgroup. The predominant instrumental goal is that the cases be handled quickly and efficiently. For example, the public may believe that a quickly resolved case will deter crime. A quick conviction will also tie up fewer resources of the police. Furthermore, requirements of a speedy trial may reduce appellate business. Lastly, a steady stream of information to the media assures the public the courts are doing their job (Eisenstein, 1977).

Inside groups of the courtroom organization, for various reasons, are also concerned with resolving cases expeditiously. Judges and prosecutors want to resolve cases quickly to give forth an aura of efficiency and accomplishment. Prosecutors also realize that as a case ages, so do memories and the longer a case progresses, the less chance there is for a conviction. It seems sometimes that the only thing prosecutors are concerned with is "getting convictions." Private attorneys also depend on a high turnover rate of clients. For them,

the way to make money is to turn out a high volume of clients with minimal time invested in each case. Finally, public defenders prefer quick dispositions, for their manpower barely suffices to handle their caseload (Eisenstein and Jacobs, 1977). The same can be said for the probation officer who would prefer to "close out" a case at the sentencing hearing, as his number of presentence reports to be written seems to be ever increasing. Furthermore, and regrettably so, probation officer's reports help process a case more "efficiently" and are often not related to the facts (Blumberg, 1967).

The expressive goal of the external environment is to do justice. Doing justice, however, varies depending on the particular member in the courtroom workgroup. For the defense, doing justice may mean gaining an acquittal or mild sentence for their client. The prosecution, on the other hand, may see justice as obtaining convictions. Judges may define justice as maintaining an impartial attitude toward all parties involved. Lastly, probation officers may define "doing justice" as submitting the most appropriate recommendation regardless of all outside influences. It should be noted that various goals of "doing justice" by each member of the courtroom organization produces

conflict in and of itself (Eisenstein and Jacobs, 1977). Internally oriented goals allows for the survival or functioning of the courtroom workgroup. The expressive form of this goal is maintaining group cohesion (Eisenstein and Jacob, 1977). Conflict in the courtroom workgroup is unpleasant, makes work more difficult, and wants to be avoided at all costs. Group cohesion, on the other hand, gives a sense of belonging and identification which are both a human need and desire (Eisenstein and Jacob, 1977). There are certain elements which are necessary to ensure cohesion in the courtroom organization. One is familiarity among workgroup members. This is an essential component as it affects the manner in which members work. The more familiar members are with one another, the better they can negotiate, the less they rely on formalities, and the more they can utilize informal arrangements. Moreover, the more familiar courtroom members are with one another, the more likely their values and goals will be the same and the less they will conflict with one another (Eisenstein and Jacobs, 1977).

It should be noted that workgroup familiarity is contingent upon the size of the courtroom organization. The smaller the number of judges, prosecutors, defense

attorneys, and probation officers, the more familiar the group should be with one another (Eisenstein and Jacob, 1977).

An aspect which reinforces group cohesiveness and determines familiarity among the courtroom organization is the interaction among members. Courtroom members spend much of their free time socializing as they are thrown together by their work space. Prosecutor and defense counsel may talk about a case not only in court but on various other occasions when they encounter one another. As a result, they can test possible compromises informally, without going before the judge (Eisenstein and Jacob, 1977).

The same can hold true for the probation officer and the prosecutor. The probation officer often times must retrieve files from the prosecutor's office in preparation for his presentence report. Consequently, the probation officer not only finds himself spending time socializing with the prosecutor but can also get a "feel" for the case through the eyes of the prosecutor. The probation officer can also determine before court if there will be any resistance or conflict if a particular recommendation is submitted. Once again, group cohesion is strengthened through this informal interaction.

An important element with regard to the amount of interaction in a workgroup is change. The less change among personnel, the more interaction will occur. In a workgroup that has little change and is stable, the members know one another's preferences, share goals, and understand each other's pressures (Eisenstein and Jacob, 1977). Consequently, prosecutors and defense attorneys learn what information the judges want in cases, know what sentence he is likely to mete out, and know how to present his case before the judge in order to prevent a great amount of conflict. They also know what plea offers were made and granted in the past, and can view each case in light of this knowledge (Eisenstein and Jacob, 1977).

The probation officer can also be included in the previous discussion. By knowing what information the judge wants in routine cases and the likely sentence which will be imposed the probation officer can guide his presentence report toward what will most likely be accepted by the judge. As a result, it is often argued that a probation officer's recommendation in his presentence report is tailored for a particular judge's predisposition. One belief is that by "pre-guessing" the judge, conflict can be avoided and cohesiveness

maintained.

Lastly, the instrumental expression of internal goals is reducing or controlling uncertainty. The goal of reducing uncertainty forces courtroom members to work together. The biggest producer of uncertainty in the courtroom organization is the trial. They require a large amount of time and effort without a guaranteed outcome (Eisenstein and Jacob, 1977). One way to ensure certainty is through plea agreements. Many goals are attained through this process as the prosecutor gains a conviction and the defense attorney most likely gains a lighter sentence for his client. The probation officer can play an important role in this process as he may feel pressure not to "bust a deal" through his presentence recommendation. The probation officer would consequently be adding to the uncertainty of the courtroom workgroup (Eisenstein and Jacob, 1977).

The desire to reduce uncertainty leads to several social norms within the courtroom workgroup. One such norm among attorneys is, "stick by your word and never mislead deliberately." Another is, "no surprises (Eisenstein and Jacob, 1977)." Probation officers may also feel constrained to abide by social norms such as the aforementioned "don't bust a deal." The

repercussions of not abiding by these norms within the workgroup are forthcoming.

It should be noted that the adherence to the goals of the workgroup may vary from organization to organization. For example, some workgroups may value cohesion less than others because they find conflict less threatening to their survival. It may also be that organizations which don't appear to abide by the goals of the workgroups, actually do, but in more subtle ways.

To illustrate how the situation, particularly with probation officers, varies from one court to another consider the examples given in a study by Davies (1974):

- (i) In one North country court, the probation service was out in the cold. Rarely referred to by the bench, the relationship was formal and distant; the expression of an opinion in court would have been frowned on had it ever been attempted; sentences tended to be punitive.
- (ii) In a Home Counties court, the two probation officers had been in post for over ten years; they were on warm social terms with the Bench, and had a clear understanding of the normal lines of sentencing; recommendations were generally included in reports, and were almost always acted on; case committees were friendly affairs in which three magistrates would visit each officer in the probation office and learn something of his work (Davies, 1974).

As eluded to earlier, there are positive outcomes in abiding with the norms of the courtroom workgroup. Compliance not only provides a sense of belonging but

the members are also regarded more favorably as a worker (Blumberg, 1967). In other words, following the social norms of the workgroup can provide a sense of security for everyone involved.

However, if the courtroom members do not comply with the workgroup norms their usefulness and loyalty is instantly questioned and brought to the forefront. There is consequently the threat of sanctions through manipulation and intimidation for non-compliance. For example, a defense attorney who violates routine norms may be punished by having to wait until the end of the day to argue his motion; may be given less time than he wishes for a lunch break in the middle of a trial; and may be kept beyond usual court hours for bench conferences (Eisenstein and Jacobs, 1977). As one can see, a defense attorney may be denied the favors of the district attorney, judge, probation officer, clerk, and others, and the collapse of his practice may be the result (Blumberg, 1967).

Probation officers may also be sanctioned for stepping outside the boundaries of the courtroom norms. An example of this is if the probation officer recommends a sentence other than that desired by the supervisor, prosecutor, or judge. He may be labeled as,

"resistant to supervision," "troublemaker," "unsatisfactory work habits," or "oddball" (Eisenstein and Jacob, 1977). It has also been found that it is not uncommon for a prosecuting attorney to call a probation officer's supervisor and complain about a presentence recommendation (Rosecrance, 1985). These methods can be utilized to downgrade or intimidate those who question the norms of the workgroup.

In light of this study, it is beneficial to expand somewhat on judicial decision-making with regard to the organizational theory. Many judges are caught in a bind as the nature of their office compels them to behave with bureaucratic concern for production, efficiency, and enforcement of law, and at the same time adhere to his political pressure concerns. As such is the case in some courts, the judge may feel compelled to diffuse responsibility and authority. This is made possible as there are several court personnel who can share the burden including lawyers and probation officers. Consequently, the judge's conflicting roles of meeting organization norms and satisfying political benefactors can be met by passing the decision-making burden to various parts of the system. Judges can suit their own need by involving different court personnel in the

decision-making process (Blumberg, 1967). This analysis of judicial decision-making should be kept in mind throughout this study.

After reviewing the various theories and explanations of decision-making, it is important to determine how influential each theory is in decisions made by probation officers and judges. The following studies have quantitatively tested various theories and determined their influence on decision-making.

STUDIES

A study conducted by Hagan (1975) of the presentencing process tested components of the conflict, interactionist and organizational theories to determine what aspects within them played a role in decision-making. The data for this study was taken from 765 questionnaires completed from February 1 to June 1, 1973, by probation officers in all Adult Probation Department Offices, in 17 cities of a western Canadian province. Officers were asked to complete a questionnaire simultaneously with each report, and to return the questionnaire immediately. Path analysis was used in analyzing the data (Hagan, 1975).

Results of this study clearly indicated that the socio-economic status of the defendants was

predominantly low. This limited the potential impact of this variable in explaining presentencing decisions. A possible conclusion may be that the conflict approach may be most important in explaining the selection of offenders in advance of sentencing (Hagan, 1975).

Variables from the interactionist perspective were consistently influential throughout the analysis. There was a strong link between the probation officer's perception of the offender's demeanor, and the following evaluation of the offender's prospects for success on probation. This, in turn, is related to the recommendations submitted and final dispositions imposed (Hagan, 1975).

The organizational theory was viewed by comparing samples where recommendations were, and were not submitted. This comparison revealed that probation officer's evaluations of success prospects were more influential when submitted by officers who also offered recommendations for sentence. Furthermore, when recommendations were submitted, the influence of extra-legal variables in the probation officer's evaluations of success prospects increased. In short, recommendation requests increased the importance of the probation officer's evaluations, but at the same time

encouraged officers to consider the offender's racial background in forming their evaluations. This analysis indicates a disadvantaging influence of extra-legal factors in sentencing (Hagan, 1975).

A study conducted by Hagan et. al (1979) examined 504 cases obtained from case files in the King County Superior Court. Regression was used in analyzing the variables which were hypothesized to affect sentencing. The conflict theory was tested by incorporating the variables sex, race, work history, and family integration. The aspects of the consensus model were reviewed using the legal variables of offense severity, prior record, and weapon or violence. The organizational model was also tested using the variables of bail, plea, probation officer recommendation and prosecutor's recommendation. Finally, the judge's predisposition or "sentencing record" was also considered.

(Hagan et. al, 1979).

With respect to the conflict model, the findings show that being female, white, having a stable work history and family ties increase the likelihood of a deferred sentence and reduce the likelihood of an incarceration sentence (Hagan, et. al, 1979). These

effects, however, are reduced when the consensus model variables of offense severity, prior record, and use of weapon and violence are introduced. For example, the effects of race are reduced by 63 and 51 percent with respect to a deferred sentence and incarceration (Hagan et. al, 1979). It appears that the effect of race is largely indirect.

The consensus model's offense related variables all affected the sentencing outcome in some way, while controlling for offender characteristics. The largest effect was evident with the variable of prior record. For example, the likelihood of receiving incarceration was 14 percent greater for persons with one prior conviction, and the likelihood of a deferred sentence was 43 percent less for persons with no prior record (Hagan et. al, 1979).

The variables associated with an organizational view of sentencing were also tested. It was found that plea and bail had notable effects on sentencing severity. With the offender and offense characteristics held constant, a guilty plea increased the likelihood of a deferred sentence by 15 percent and decreased the likelihood of an incarceration sentence by 19 percent. Likewise, a released status increased the likelihood of

a deferred sentence by 30 percent and reduced the chances of incarceration by 25 percent (Hagan, et. al, 1979).

The judge's predisposition to sentence offenders in a particular way was also looked at. After controlling for the offender, offense, and court-related characteristics it was found that the proportions of variance attributable to judge differences, with respect to the sentencing outcome, was about 2 percent (Hagan, et. al, 1979).

Lastly, the effects of the recommendations received by probation officer and prosecutor were analyzed. It should first be noted that judge's predisposition differences accounted for very little variation in the recommendations they received from either the probation officer or the prosecutor. This is in sharp contrast to the ideology of many that recommendations are simply a formality (Hagan et. al, 1979).

The results of the effects of probation officer's and prosecutor's recommendations on sentencing is somewhat contradictory to the aforementioned findings of judicial differences. With all other variables held constant, a positive recommendation of a deferred sentence by the prosecutor increases the likelihood of

such a sentence by 42 percent, while a prosecutor's recommendation of an incarceration sentence increases the likelihood of incarceration by nearly 38 percent. The comparable figures for probation officers were 15 and 26 percent (Hagan, et. al, 1979). These findings suggest that the prosecutor's recommendation is more important than the probation officers and that mass processing appears to be a greater concern than individualizing justice.

The previous study found some evidence for all the decision-making theories including the conflict, consensus, and organizational models. There was evidence for the Marxian conflict emphasis on offender characteristics and the Durkheimian consensus emphasis on offense-related factors. It does appear, however, that the offense-related factors were more influential. Organizational factors such as plea and bail also had impacts on sentencing. Lastly, the prosecutor's recommendation appeared to be more important than the probation officer's recommendation.

An Israeli study conducted by Frishtik (1988) examined probation officer's recommendations in his investigative report concerning offenders of the 18-21 year age group. The data was collected from those

offenders who had an investigative report written on them, where a sentence of jail or probation was handed down between the period of 1978 and 1981. Multiple regression was utilized in analyzing the data. The factors influencing the probation officer's recommending probation vs. refraining from a probation recommendation were studied. The model's tested were the Diagnostic-Rehabilitative model, the public protection model, the conflict model and the organizational model (Frishtik, 1988).

Results of this study did not support the Diagnostic-Rehabilitative model. According to this model, the probation officer is expected to recommend probation when the offender is suffering from personal, family, social and criminal deficiencies. Results, however, showed that the probation officer tended to refrain from recommending probation whenever the offender suffered from behavioral problems at school, poor work history, was uneducated, an extensive criminal history, and poor family relationships (Frishtik, 1988). These findings do not support the rehabilitative model hypothesis.

The probation officer's recommendations being in accordance with the public protection model were

strongly supported in the findings. The most important variable in this model is the defendant's prior criminal record. This variable was found to be strongly coordinated with the recommendation made by the probation officer which solidifies the public protection hypothesis (Frishtik, 1988).

The organizational model hypothesis was also supported. The model's variables, including identification of the court, identification of the judge and the decision reached by the remand judge, were all found to be strongly correlated with the recommendation of the probation officer (Frishtik, 1988).

Finally, the results only partially supported the conflict model. Of the five variables examined in this model (ethnic background, family status, sex, age, economic status) only the offender's ethnic background was found to be coordinated with the probation officer's recommendation. This correlation, however, was not very strong (Frishtik, 1988).

Katz (1982) examined how certain variables were related to probation officer decision-making with respect to their sentencing recommendations. The data for this study was collected from 185 probation officers from New York State. Questionnaires were completed by

each officer and the results were analyzed using multiple regression (Katz, 1982).

One of the variables that was hypothesized to affect decision-making was attitude toward the act. This was defined as the probation officer's attitude toward making recommendations about particular individuals. Each respondent answered the question, "Recommending probation in this case is...harmful-beneficial; good-bad; insufficient-sufficient; useful-useless; foolish-wise." The adjectives were then placed on an eleven-point scale, and repeated for the question, "Recommending incarceration in this case is ...(Katz, 1982)."

The second variable tested which is closely related to the courtroom workgroup aspect of the organizational theory, was called social normative beliefs. These are the probation officer's perceptions of what others believe he or she should do. For the probation officer, the four classes of significant others identified were fellow probation officers, the officer's supervisor, the judge with whom the officer usually works, and the general public (Katz, 1982). This is essentially the "second-guessing" component of the courtroom workgroup.

Results showed that the strongest correlations were

between attitudes toward recommending probation and the decisions, and between attitudes toward recommending incarceration and the decisions. This provides support for the interactionist theory. Regarding the social normative beliefs, the officer's belief about their fellow probation officers and their supervisors were quite similar in terms of their predictive abilities. Beliefs about the judges with whom they worked and the general public were the least predictive (Katz, 1982). An important implication in this study appears to be that officer's may be second-guessing their supervisors and fellow officers moreso than the judges.

Several other studies have examined the relevant factors in decision-making by probation officers and judges. Although particular theories were not incorporated in the forthcoming studies, the findings show support for several of the previously mentioned models.

A study by Lohman (1966) found that the factors most significantly related to recommendations were, in order of significance: prior record, confinement status prior to judgement, number of prior arrests, offense, longest period of employment, occupation, number of months employed, income, longest period of continual

residence, military history, residence changes, number of job changes, distance from residence to place of offense, number of aliases, marital status, legal representation, use of weapon, family criminality, and guilty plea (Lohman, Wahl, and Carter, 1966). The findings of this study appear to give biggest support to the consensus model and public protection model. It does seem, however, that the conflict model is also supported.

The same study compared the perceived important factors in determining recommendations of probation officers and dispositions of judges. Statistical computations were completed and two rank orders of significant factors were produced. A correlation of the data was computed which showed a significant value of .90. This indicates a considerable agreement between probation officers and judges as to the significance of factors relating to probation or imprisonment recommendations and dispositions (Lohman, Wahl, and Carter, 1966). This study gives evidence to support the aspect of the consensus model which states that probation officers and judges agree on the same factors in sentencing.

An extensive study by Carter (1967) explored which

factors were significant to probation officers in making their sentencing recommendations. Carter used 14 probation officers who were presented five hypothetical cases. From these cases, they were asked to select items of information relevant to their decisions of recommending probation. Of 24 items given, only an average of 7.8 were used in each case. The results showed that by far the two most important factors in probation officer's decisions were offense and prior record. Other relevant factors in order of importance were, psychological and psychiatric data, the defendant's statement, the defendant's attitude, employment history and age (Carter, 1967). The findings of this study give main support to the consensus model and public protection model. There is moderate support, however, for the interactionist perspective, rehabilitative model, and the conflict model. A study by Green (1956-1957) examined the legal and extra-legal factors on sentences handed down by judges. Green reviewed 1437 cases dealt with by eighteen judges in the Philadelphia court of Quarter Sessions. Legal factors were defined as the type of crime committed, the number of bills of indictment on which the defendant is convicted, the prior criminal record of the offender,

and the recommendations of auxiliary agencies of the courts contained in reports of presentence investigations and neuropsychiatric examinations. The extra-legal factors were defined as sex, age, race, and place of birth. Green also considered the influence of the prosecutor and the type of plea-guilty or not guilty- made by the defendant (Green, 1961).

After analyzing the data, Green concluded that the legal factors explained most of the disparities in the decisions of the court. The most important factors were the seriousness of offense and prior criminal history. Furthermore, when the legal factors were held constant, the extra-legal factors such as sex, race and age were of little influence in sentencing (Green, 1961). These findings seem to support the consensus model and public protection model. Some support is also given for the conflict model.

The previously mentioned Bronx Sentencing Project, 1972, identified the factors which judges usually used as a basis for their decisions. This was accomplished through extensive interviews and by analyzing 86 probation reports. The top three factors that judges relied on in determining a particular sentence were prior criminal record, employment, and family

relationships (Lieberman, Schaffer, and Martin, 1972). The consensus model, public protection model, conflict model, and rehabilitative model all appear to be influential in this study.

A previously mentioned study by Norris (1969) determined which factors were important in influencing the probation officer's recommendation. Norris asked each officer to rank a selected list of variables in terms of their importance in influencing their recommendation. The three variables rated by far as the most important to know about a client were present conviction, threat to community, and record of arrests (Norris, 1969). Norris's study gives support to the consensus and public protection models. Czajkoski (1973) found that plea bargaining may also affect the presentence recommendation. Under such circumstances, the judge would merely accept or reject the plea agreement. Furthermore, under a plea agreement, the officer's recommendation may mean little to the actual case disposition. As Czajkoski states, it may now be better for the probation officer to address the prosecutor than the judge (Czajkoski, 1973). This finding shows that the bureaucratic nature of the court may have an influence on probation officer's decisions.

Bartoo (1963) also attempted to determine various legal and extra-legal factors which affected probation officer's recommendations. Bartoo, after organizing a "bull session" with Los Angeles County adult probation officers, found that a recommendation was affected at least partially by such factors as "personal convenience," avoidance of "conflict," "knotty and complex problems that we would prefer to avoid," "best interest of the community," and the officer's own attitudes. Legal factors such as the nature of the offense and the severity of alternative penalties were also influential in their decisions (Bartoo, 1963). These findings give support to the consensus model, public protection model, interactionist perspective, and the organizational model.

One aspect of Walsh's (1985) study examined 14 criteria presented to probation officers assumed to be important in the decision-making process. In this rank order of characteristics, probation officer's did not perceive themselves as second-guessing judges. In fact, the judge ranked below (in order of importance) prior record, offense, psychological information, offender's attitude, alcohol abuse, drug abuse, employment history, education, family criminality, and whether the offender

had dependent children. The only characteristics the judge ranked higher than were marital status, victim recommendation and race (Walsh, 1985). The findings of this study refute the "second-guessing" aspect of the organizational model.

A study by Rosecrance (1985) also studied decision-making processes used by probation officers in preparing presentence recommendations. Unlike the aforementioned studies, the data was drawn from qualitative interviewing of court personnel and was enhanced by the author's 15 years of personal work experience as a probation officer. Interviews were conducted with over 30 current and former presentence investigators as well as with private attorneys, prosecuting attorneys, judges, defendants, and probation supervisors (Rosecrance, 1985).

The author's analysis of the data revealed that presentence reports fell into two categories: ceremonial recommendations and decision-making cases. It was estimated that approximately half of the cases fell into the category of ceremonial recommendations. These cases are defined as those in which the probation officer's recommendation is a taken-for-granted endorsement. Such cases involve virtually no decision-

making by probation officers and are divided into three categories: 1) ineligibles, 2) sentencing agreements, and 3) diversions (Rosecrance, 1985).

Ineligibles are presentence reports which are written for certain offenses such as rape, murder and arson, whose sentence is set by statute, or in other words is mandatory. In such a case, the recommendation is already set and the officer's report is used by correctional agencies that receive the defendant, not by judges for whom the report was originally intended (Rosecrance, 1985).

Sentencing agreements include those cases in which a deal has already been struck between the attorneys and the defendant. It is believed that in such cases a probation officer's recommendation is no longer relevant. Although the probation officer is not bound by the sentencing agreement and can recommend a sentence that will "bust the deal," it is seldom done (Rosecrance, 1985). The following is a probation officer's view of plea-bargaining deals:

"It's stupid to try and bust a deal. What's the percentage? Who needs the hassle? The judge always honors the deal-after all, he was part of it. Everyone, including the defendant, has already agreed. It's all nice and neat, all wrapped up. We are supposed to rubber-stamp the package-and we do. Everyone is better off that way (Rosecrance,

1988)."

This view coincides with the organizational theory.

Diversions are those cases in which first-time offenders are referred for deferred prosecution and eventual dismissal. Although the probation officer submits a presentence report in diversion cases, the recommendation is a given. If the defendant does not have a criminal record he or she is eligible for diversion and it is almost always granted (Rosecrance, 1985).

The other type of presentence report falls into the category of a decision-making case. These are cases in which a disposition has not been determined and the probation officer can exercise some discretion in submitting recommendations. It is the author's contention that this discretion is narrowed considerably by sentencing concepts and policies (Rosecrance, 1985).

Sentencing concepts can be described by the ideology that unless there is a preponderance of negative evidence, the defendant should be granted probation. It is believed that probation should only be denied in unusual cases. Under these circumstances, the probation officer's main function is to provide "conditions" of probation. The premise behind a

sentencing policy is that it's a given that certain offenders receive certain sentences. For example, a first-time drunk driver will receive two years probation with the following conditions: serve 48 hours in jail, pay a \$500 fine, and attend mandatory alcohol counseling (Rosecrance, 1985).

The probation officer can gain credibility by submitting recommendations that are compatible with current sentencing concepts and policies. Furthermore, the probation officer's perception of the accuracy of his recommendation can be determined by gauging the judge's, prosecuting attorney's, and probation supervisor's reactions to those recommendations (Rosecrance, 1985).

One belief is that it is in the best interest of the probation officer to tailor his recommendation toward the particular sentencing judge. Judges favor presentence recommendations that reflect their personal sentencing policies. It has been stated that probation officers learn "to appreciate the importance of the breezes which blow from the judge's chambers (Rosecrance, 1985)."

Probation officers can be manipulated into tailoring their recommendations, as they realize judge's

are powerful figures and can exert a considerable influence on their careers. Judicial praise for the quality of a probation officer's work can be the basis for a promotion. In the judicial district of which this study takes place, advancement to administrative positions in the probation department can only take place with the approval of one or more of the presiding judges. As one can see, judicial criticism can negatively affect advancement potential (Rosecrance, 1985).

Prosecuting attorneys are also influential members in the decision-making process and can affect a probation officer's recommendation. Probation officers are in constant contact with the prosecuting attorneys. They retrieve much of the information which goes into a presentence report such as police reports, criminal records, and legal proceedings from the district attorney's office. As a result, the probation officer has several informal discussions with the prosecuting attorney and allows him to get the "real low down" on the defendant. After this interaction the probation officer often feels sympathetic to the prosecutor's opinion (Rosecrance, 1985).

A prosecuting attorney may also use coercive

measures in getting a probation officer to see things his way. For example, some prosecutors do not hesitate in calling a probation officer's supervisor to complain about a recommendation (Rosecrance, 1985).

Probation supervisors may also influence probation officer's decisions with respect to presentence recommendations. Probation officers must discuss his proposed recommendation with a supervisor before the report can be submitted. If probation officers consistently submit recommendations that conflict with a supervisor, he may be labeled as "out of line," find themselves engaging in "running battles," or may even be transferred to a different unit in the department (Rosecrance, 1985).

It is Rosecrance's belief that probation officers have virtually no role in establishing sentencing parameters. He is somewhat cynical and believes that probation officers simply anticipate and react to events but rarely shape them. This may be true in this particular jurisdiction, but one should be careful not to overgeneralize the findings of this and all the aforementioned studies, as conclusive in all districts. As mentioned earlier, each district has its own "personality" which is dependent on several factors such

as region and size of department.

SUMMARY AND HYPOTHESES:

It has been shown that there is a strong relationship between probation officer's recommendations and actual sentencing decisions. This finding appears to be rather consistent throughout the existing literature. There is debate, however, as to what degree various factors affect the probation officer's recommendation and judge's disposition. These include objective and subjective factors about the client and his case in general, the agency setting in which the decision is made, and various external factors.

This study will determine the relationship between recommendations and actual sentences and will attempt to determine the relevant factors which affect the probation officer's recommendation and the judge's acceptance or rejection of it. As mentioned in chapter one, the relationship between recommendations and actual sentences will be determined through the testing of hypotheses. The hypotheses which will be tested in this study using data from the Department of Correctional Services in Scott County, Iowa are as follows:

- 1) Research: Sentencing judges are more likely than not to agree with sentencing recommendations of probation officers.
Null: Sentencing judges are more likely than not to

disagree with sentencing recommendations of probation officers.

- 2) Research: Probation officers and judges agree on sentences more often when offenders do not have prior offenses as compared with those who do have prior offenses.
Null: Probation officers and judges disagree on sentences more often when offenders do not have prior offenses as compared with those who do have prior offenses.
- 3) Research: Judges are more likely to agree with recommendations of probation than incarceration.
Null: Judges are more likely to disagree with recommendations of probation than incarceration.
- 4) Research: Where judges disagree with probation officer recommendations, probation officers recommend more punitive sentences than what judges impose.
Null: Where judges disagree with probation officer recommendations, probation officers recommend less punitive sentences than what judges impose.

The remainder of this study will be more exploratory in nature rather than classical hypothesis-testing. Through previously published literature, a Likert scale questionnaire, and informal interviews, inferences will be drawn regarding the importance of various factors in probation officer and judicial decision-making. Some of the strongest expectations are the following.

Of the objective data about the defendant and his background, the seriousness of the offense and prior criminal record were expected to have the strongest influence on probation officer and judicial decision-

making. The defendant's attitude and desire for help were also expected to have a significant impact on decision-making. Lastly, the courtroom workgroup was expected to influence the decisions of both probation officers and judges to a certain extent.

Chapter III

Methodology

Before proceeding with the strictly methodological issues, the reader may want at least a sketchy picture of the agency being studied. This information is based both on published materials and discussions with other staff members.

The state of Iowa consists of eight judicial districts, each divided to serve an approximately equal number of people. Scott County, one of the five counties which forms the Seventh Judicial District, serves a population of 150,979 and is easily one of the largest counties in Iowa (Vital Statistics, 1992). In 1992, the adult division of Scott County Probation, with which we are concerned, handled about 559 presentence reports, supervised approximately 1550 probationers and parolees at one time, and had a staff of 18 probation officers to perform these functions.

Within Scott County, the adult probation officers are relatively autonomous from the county attorneys and judges with respect to geographic location as well as with their duties to the court. The eighteen adult probation officers are employees of the State Department of Correctional Services and are located in a facility

completely separate from the county attorneys and judges. Furthermore, since the probation officers do not attend the sentencing hearings their only contact with the county attorneys or judges may be while retrieving files from the States Attorney's Office or in passing at the courthouse. The probation officer's duties are also autonomous from the county attorneys and judges. The probation officers, county attorneys, and judges each have their own responsibilities and they are for the most part independent of each other. The probation officers and presentence unit supervisor agree that their actions are not dictated by what the county attorneys or judges say or do. As one staff member commented, "our department runs its own ship." They do, however, work together when problems arise.

The methods of investigation utilized in this study were document analysis, interviews, and a Likert-Scale questionnaire. Document analysis will be the first method discussed. A wealth of knowledge may be obtained by analyzing official documents such as birth, death, and marriage certificates, school, military and court records, newspapers, high school and college year books, and employment records (Fitzgerald and Cox, 1987). In using document analysis as a method of investigation,

one must be aware of the strengths and weaknesses of such. A pitfall in using document analysis is that the documents being examined are created by persons other than the researchers for purposes other than the research project (Fitzgerald and Cox, 1987). As a result, there may be built in biases in the documents one is using. Other pitfalls the researcher must be aware of in collecting documents from subjects are deceit, misinterpretation, and misunderstanding (Fitzgerald and Cox, 1987).

Nonetheless, there are some advantages in using document analysis. For example, it is often the only way to collect data about past events, it is relatively inexpensive, and the researcher usually has no effect on the content of the materials being analyzed (Fitzgerald and Cox, 1987). The documents examined were official Department of Correctional Services records of convicted defendants in Scott County, Iowa. Specifically, each presentence report which was completed on convicted offenders was examined between the time period of January 1, 1992 to June 30, 1992. The total number of cases analyzed was 227. In each presentence report, the variables which were examined included prior criminal record, present offense, race and gender of the

offender, recommendation, actual disposition, presiding judge, probation officer, whether or not the case was plea bargained and whether or not the case fell under a mandatory sentencing law. By using document analysis, one is able to determine the relationship between recommendations and actual sentencing decisions. It should be noted that confidentiality with regard to names of defendants, addresses, etc, was maintained. Confidentiality and liability waivers were signed before the research began.

The second method of investigation which was employed in this study was interviews. Informal interviews were conducted with three presentence report writers, the presentence unit supervisor, four county attorneys, and five judges. In conducting informal interviews, the questions are open-ended, the interviewer asks general questions, and then follows up on responses and pursues various other topics. As Fitzgerald and Cox indicate, the interviewer must be concerned with three things: a) establishing good rapport with respondents; b) determining the meaning and truthfulness of their responses; and c) using the type of questioning that will elicit the required information (Fitzgerald and Cox, 1987). Interviews were conducted

in consultation with the supervisor of the presentence unit in Scott County, Iowa. Interviews with probation officers addressed the issue of which factors influenced the recommendations in their presentence reports (ie. prior record, seriousness of offense, plea agreement, mandatory sentence). Interviews with the judges addressed the issues of what factors influenced their sentencing decisions (ie. confinement status prior to judgement, employment history, prior criminal record) and what factors determined their concurring or rejecting a presentence report recommendation (ie. familiarity and respect of the individual probation officer). Interviews with the presentence unit supervisor and county attorneys were conducted to determine the relevant factors in their decision making. It was necessary to analyze the results of the interviews qualitatively as there was only a sample size of thirteen.

The third method of investigation used in this study was a Likert-Scale questionnaire. These questionnaires were given to the same probation officers, presentence unit supervisor, county attorneys, and judges who were interviewed. Each questionnaire contained a list of factors believed to be important in

determining recommendations by probation officers and dispositions by judges. In using the Likert-Scale questionnaire, each respondent is presented with a factor in sentencing and is asked to indicate whether it is "very important," "important," "neither important or unimportant," "unimportant," or "not important at all." (See appendix A to view the Likert Scale Questionnaire)

One advantage of using a Likert-Scale questionnaire is that the originality of response categories is rather concrete. As such, judging the relative strength of agreement between respondents is relatively simple. A second advantage in using a Likert format is that each factor can be scored in a uniform manner. With five response categories, scores of 1 to 5 might be assigned. This is possible as each response category assumes about the same intensity as the rest (Babbie, 1992).

Descriptive statistics were used in the presentation of data. The numbers of defendants were described in terms of raw numbers, percentages, and rates. Tables of frequency distributions and a summary of their data were also presented.

In summary, one phase of this study will determine the relationship between probation officer's recommendations and actual sentencing decisions through

empirical hypothesis testing. The exploratory aspect of this study, however, only allows one to draw inferences regarding the relevant factors in probation officer and judicial decision-making. This phase of the study was conducted in exploratory fashion, as it would be difficult to identify, isolate, and test all the factors which could influence a probation officer's and judge's decision. Although there are limitations to this study, it is felt that it can achieve its primary purposes of determining the relationship between probation officer's recommendations and actual sentences and the relevant factors in probation officer, supervisory, prosecutorial, and judicial decision-making.

CHAPTER IV
FINDINGS AND ANALYSIS

This chapter will analyze and discuss the data which was collected utilizing document analysis, interviews, and a Likert-Scale questionnaire.

Likert-Scale Questionnaire

The Likert-Scale questionnaire was distributed to five judges, four county attorneys, three probation officers, and one presentence unit supervisor. All thirteen questionnaires were returned and then analyzed by computing the mean score for each category of subject's response with the particular variable. Table 1 displays the mean scores of each category. A score of one indicates the respondent perceives the variable as "not important at all" in determining his/her sentencing alternative, two indicates the variable was perceived as "not very important," three indicates the variable was perceived as "neither important or unimportant," four indicates the variable was perceived as "important," and five indicates the variable was perceived as "very important." The Likert-Scale questionnaire can be seen in Appendix A.

Table 1
 Mean Scores Of Variables
 1=Not Important...5=Very Important

Variables	Judges	Pros.	PO's	Supervisor
Gender	1.4	1.75	1.33	2.0
Drug/Alc- ohol Abuse	4.2	4.0	4.0	4.0
Income Level	2.0	1.25	1.33	2.0
Number and Severity of Prior Con- victions	5.0	4.0	5.0	5.0
Race	1.4	1.0	1.0	2.0
History of Mental Illness	4.0	4.0	4.0	4.0
Marital Status	2.4	1.25	1.33	2.0
Seriousness of Current Offense	5.0	5.0	5.0	4.0
Military History	2.2	2.0	2.0	2.0
Confinement Status Prior to Sentencing	3.0	3.25	3.33	4.0
Length of Present Employment	3.6	3.75	3.67	2.0
Age	3.4	4.0	4.0	2.0

Table 1 (Continued)

Mean Scores Of Variables

1=Not Important...5=Very Important

Education Level	3.2	2.5	2.33	4.0
Plea Agreement	4.0	4.25	2.33	2.0
Offender's Desire For Help	3.8	4.0	4.33	4.0
Residency Changes in Last 5 Years	3.0	2.75	1.67	2.0
Cooperation From Defendant	3.8	4.25	4.33	5.0
Threat to Community	5.0	4.75	5.0	5.0
Expectation of Peers	3.0	3.25	2.0	4.0

In viewing Table 1, it becomes apparent that the mean scores of each variable are fairly consistent across all categories of respondents. It should be kept in mind that the number of respondents was low, so a high or low response by one participant could skew the results of the entire category of respondents. As one can see by viewing Table 1, the variables which were perceived as being "important" or "very important" by

obtaining a mean score of at least 4.0 across all categories of respondents include the following: Involvement in Drug/Alcohol Abuse, Number and Severity of Prior Convictions, History of Mental Illness, Seriousness of Current Offense, and Threat to the Community. The aforementioned variables were very consistent in the minds of the respondents as being at least "important."

These findings support the idea that punishment must be meted out to protect the public. In doing so, one must consider the offender's prior criminal record which is the best variable for the prediction of recidivism. This data reflects the importance of prior criminal history in the minds of probation officers, judges and county attorneys.

The variables which obtained a mean score of 2.0 or less across all categories of respondents included Gender, Income Level, and Race. These categories were consistently viewed as being "not very important" by all categories of respondents.

This finding refutes the conflict theory which states that offender characteristics such as economic status, ethnic origin, and gender are major considerations in the decisions of probation officers,

judges, and county attorneys.

The remaining variables obtained an average score between 2.0 and 4.0. These included: Marital Status, Military History, Confinement Status Prior to Sentencing, Length of Present Employment, Age, Education Level, Plea Agreement of Sentence, Offender's Desire for Help, Residency Changes in Last Five Years Cooperation From Defendant, and Expectation of Peers. The only variable which appeared to differ significantly across the categories of respondents was that of the Plea Agreement of Sentence. The judges and prosecutors felt the variable was "important" whereas the probation officers and presentence unit supervisor viewed the variable as "not important." A possible reason for this is that the judges and prosecutors rely on the plea agreement to maintain efficiency in their daily workload. This is not the case for probation officers or their supervisor. Consequently, the judges and prosecutors perceived the plea agreement of sentence as more important. The data from the Likert-Scale questionnaires support the consensus model which theorizes that the legally defined offense characteristics play a strong role in decision-making. It is clear from the data that the probation officers,

in making their recommendations, place emphasis on the same factors as do the court in choosing their sentencing alternative.

Interviews

The next phase of this study which will be analyzed is the interviews conducted with the three presentence investigation officers, the presentence unit supervisor, four county attorneys, and five judges. The first question asked was, "What factors do you feel are most important in determining a recommendation or actual sentencing alternative?" The probation officers and presentence unit supervisor unanimously felt that the most important factors were the offender's prior criminal history and severity of present offense. One officer stated, "How a person has behaved in the past dictates his future behavior." Factors of secondary importance included substance abuse history, prior periods of probation and their performance on probation, age, and whether the offender exhibits genuine remorse and motivation to change. The prosecutors also felt that the offender's criminal history and severity of present offense were the two most important factors in determining a recommendation to the judge. Other

factors listed by the prosecutors were the victim and his/her restitution, degree of cooperation of the defendant and available resources. Three of the five judges felt criminal history and seriousness of present offense were the most important factors while two judges, thinking from a more legalistic view, believed the range of sentences which the statutes allowed for was the most important factor.

These findings seem to corroborate the findings from the Likert-Scale questionnaires which found the criminal history and seriousness of present offense to be important factors in sentencing. Furthermore, the protection of the public is solidified as a determining factor in probation officers, judges, and county attorney's decision-making. The next question posed to the probation officers, presentence supervisor, and judges was, "Why do you believe there is such a high level of agreement between the probation officer's recommendation and the judge's actual disposition?" The most common answer from the probation officers and presentence supervisor was that they and the judges agree on the same important factors in sentencing and see things similarly. Another common answer was that they had a good rapport with the judges and county

attorneys. One officer stated, "Our recommendations are departmental recommendations and there is a lot of consistency in them." Another related, "It's common sense. We all operate on the same set of guidelines. There is a gut level feeling toward whether or not a defendant deserves probation or not. Further, the recommendations are very basic, either probation or incarceration."

In responding to the same question, the judges also felt that they and the probation officers are agreeing on the same factors in sentencing. One judge responded to the question, "Because we have a professional staff that is making the recommendation and looking at all factors involved." Another judge responded, "Judges rely on the informed opinion of the probation officer because he has been a probation officer for some time, knows the community, knows the history of the defendant, and has a better feeling of whether the defendant is likely to make it on probation or not." This response is consistent with the explanation that the judge, having such a high regard for the competence of probation staff, "follows" the recommendation. The same judge also responded that the probation officer knows what the prosecutor has recommended and will usually

comply with it. Further, it was this judge's belief that the probation officer communicates with the prosecutor to see what he'll recommend at sentencing. This judge feels the probation officer pre-guesses the prosecutor as to what his/her recommendation will be prior to submitting the presentence report. One judge simply responded to the question by answering, "Luck."

It is apparent that the reason for the high level of agreement between probation officer's recommendation and actual sentence imposed is that the judges and probation officers agree on the importance of factors in sentencing.

The next question posed was "How much interaction is there between the probation officers, presentence supervisor, county attorneys and judges?" The consensus among probation officers and presentence supervisor is that there is very little interaction between themselves and the judges. The only interaction indicated is that a judge may call an officer to inquire about the facts of a case. This seldom occurs. There is, however, an annual joint meeting among all members to discuss pertinent issues. There is more interaction among the probation officers and county attorneys. It was related that probation officers will often retrieve information

from the county attorney's file and may visit with him/her to discuss a particular case. The officers will occasionally discuss a case with the county attorney and get insight as to what direction they are leaning. One officer related, "The county attorneys want us to cover their tracks toward what they are working toward."

The county attorneys indicated that there is very little interaction between themselves, the judges, and probation officers. They stated it is unethical to discuss the case with a judge prior to sentencing. It was related that the probation officers would retrieve the file if needed and subsequently ask questions that they had. They sometimes will ask the prosecutor what his/her recommendation will be. One county attorney stated, "There is very little interaction among us. We all three have separate jobs and don't intermingle very much." One prosecutor commented, "We're all part of the same swamp but we all have our own island. It's a problem if we become too close knit."

Two of the judges responded that there is absolutely no ex parte communication among the respondents. One judge stated, "Everything done is in open court and on the record." The other judges related there is some interaction among the respondents, but it

is limited. One judge indicated he will sometimes communicate with the defense counsel and prosecutor about any questions they may have about a prosecutor's or probation officer's recommendation or a request to have a conference in the judge's chambers. They may also discuss how the sentencing hearing will proceed and how many witnesses will be allowed to testify. One judge related that he will on occasion call a presentence writer to clarify a point in the PSI or discuss the placement of an offender.

It does not appear that the interaction among members of the courtroom workgroup in the 7th Judicial District is as great as other departments. As a result, this may indicate that members of this workgroup are making more independent decisions.

Although there is not a great deal of interaction among the respondents, their working relationship appears to be good. All respondents agreed the relationship that exists among themselves is a professional, yet congenial one. One officer stated the feedback they have received from the judges shows they appreciate the work being done. If there are differences, they are usually due to time constraints placed on officers, philosophical differences, or the

volume of work on all respondents. One officer's opinion of the county attorney's perception of probation is reflected in the following statement, "If probation officers fell off the face of the earth, I don't think they would care. They exist in their own little world. I don't feel as a whole, the county attorneys office appreciates the presentence report unless it coincides with their recommendation. Much of the information in the PSI is insignificant to them. If they are interested in the PSI at all it is because it does part of their work for them (ie. gathers restitution information)."

As one can see, it does not appear that the probation officers are writing the presentence reports and submitting recommendations to pre-guess the county attorneys and avoid conflict.

The probation officers were asked if they felt the judges and prosecutors read the entire PSI before sentencing and consider all the factors in it prior to sentencing. One officer believed they both do. Another officer stated that it depends on the offense and individual judge. If a case was borderline between probation and incarceration it was this respondent's belief that the judge did consider the PSI more. One

officer stated, "I hope the judges read the entire PSI and consider all the factors in it but I don't think they do because of the high volume of work. They probably read the highlights and for justification of what they want to do. The judges believe many factors in the PSI are superfluous."

Four out of the five county attorneys interviewed stated they read the entire PSI before sentencing. One emphasized it is office policy to do so. One county attorney, on the other hand, stated he did not read the PSI in every case. He stated that he does read it on the important cases and those that went to trial. He will sometimes skip to the recommendation and see if the probation officer agrees with him and leave it at that. This respondent believes the PSI is mostly for the judges.

The judges were then asked if they read the entire PSI before sentencing and how beneficial the PSI and recommendation in them were in considering a sentencing alternative. All judges stated that they read the entire PSI prior to sentencing and sometimes twice. One judge did admit, however, that he sometimes reads the last page including the recommendation first, and then turns to the front and reads through the PSI. One judge

stated that the PSI, in terms of being helpful, rated as an 8 or 9 on a scale of 1 to 10. Two judges stated that they consider the recommendation of the probation officer in determining their sentencing decision and it is very helpful. These judges indicated the Department of Correctional Services has an excellent staff and are professionals. Conversely, two judges felt the PSI was important in helping them determine their sentencing decision, but felt the recommendation should not be a part of the report. One judge indicated he considered the PSI but doesn't consider the recommendation at all. He wished the probation officers didn't submit recommendations and believes the obligation to sentence lies solely with the court. A second judge didn't want recommendations submitted by probation officers because he felt they only report the facts that support their recommendation. This judge does not feel the probation officer's recommendations are reliable and that they are making their recommendations for the wrong reasons. This judge felt the probation officers are receiving directives from Des Moines to ease off on the recommendations of incarceration. The judge stated there are bad decisions being made at sentencing and it is evident by offenders who are placed on probation

coming back two months after being sentenced for revocation.

The next question addressed to the prosecutors and judges asked what they felt the probation officer's proper role in sentencing was. One county attorney responded the probation officers should gather enough information to give the judge an idea of who he is dealing with. The remaining prosecutors felt the probation officer's role was to give recommendations to the court. One county attorney commented, "The probation officers should give recommendations because they have a better feel for the defendant and their observations are helpful." Another prosecutor related, "Probation officers should give recommendations because they know what a defendant's chance for success on probation is, the prison population, etc." The judges were somewhat split with regard to the probation officer's proper role in sentencing. The two judges who did not feel recommendations should be included in the PSI stated that the probation officer's role was to develop the facts of a case and submit several sentencing options. The remaining judges felt the officers should submit recommendations in their PSI's. One judge indicated they could use all the help they can

get. Another judge responded, "Probation officers should make recommendations based on their professional opinion as to whether a particular sentence will control or rehabilitate a particular defendant."

The probation officers were then asked if they felt they should agree with the plea agreements to maintain efficiency in the overall system. They stated that although they usually agree with the plea agreements they are never bound or influenced by them.

The judges were also asked if they felt they should concur with the plea agreements to maintain efficiency. One judge related that he believes he should. He stated that if the defendant pleads guilty he needs to have a good idea of what will happen to him. This particular judge felt strongly that a defendant is more apt to plead guilty if there is less stalling. The remaining judges did not feel it was their duty or obligation to agree with a plea agreement. As one judge stated, "We're more independent than that. We should do what is right."

Only one respondent, a judge, felt it was imperative to maintain efficiency in the courtroom workgroup. This component of the courtroom workgroup does not seem to be prevalent in the 7th Judicial

District. The prosecutors were then asked if they felt the probation officer's recommendations should concur with their plea agreements. All county attorneys believed that the probation officer's recommendations should not necessarily agree with their plea agreements. One prosecutor related, "They have their job to do and we have ours. Their job is not to echo us." One commented, "Not necessarily, sometimes we're wrong, sometimes they're wrong." One attorney indicated that, "differences in opinion are good."

The presentence unit supervisor was also asked how important departmental efficiency was in avoiding conflict between probation officers and supervisors. He indicated that conflict does slow down the process somewhat, but does not think it is necessarily a negative thing because it is a way to learn about each others jobs and views.

The probation officers and presentence supervisor were asked if they feel their department is autonomous from the judges and county attorney's office. All respondents indicated they felt independent from the judges and attorneys. One respondent commented, "We are definitely autonomous. We don't try to look at the county attorney's recommendation in their plea

agreement. Our department runs its own ship and we try not to be directed by what the court or county attorneys say. However, we do try to work together when problems arise."

The closeness of the courtroom workgroup does not appear to exist in the 7th Judicial District as it does in other studies. One possible reason for this is due to the large size of the department or because of the location of the department in relation to the county attorney's office and courthouse. The Department of Correctional Services, unlike other smaller departments, is completely separate from the courthouse, and other members of the workgroup.

The judges were asked if it is necessary due to the high workload to delegate some of their sentencing responsibility to the probation officer or prosecutor. Two judges felt it was necessary to delegate some responsibility. One stated the final decision, however, should not be taken away from the judge. Another stated, "Without their input, I wouldn't have much information to base a sentence on." Conversely, the remaining three judges interviewed held the opinion that the sentencing responsibility was the sole duty of the judge. As one judge commented, "The sentencing

responsibility should be left with the judge because that is the position to which the ethical, professional, and moral responsibility is focused. Decision making is focused at the decision maker who is the judge."

The county attorneys were asked if they ever tried to persuade the probation officer toward a particular recommendation. Two of the four prosecutors stated they had never tried to do so. One indicated he had done so on one or two occasions. The last prosecutor also stated he has tried to persuade the probation officer toward a particular recommendation on a few occasions because they see the defendant before the PSI is written.

The probation officers were also asked if the prosecutors tried to persuade them toward a particular recommendation or if they tried to persuade the prosecutors. One officer stated that neither occurred. Another stated the prosecutors tried to persuade the officers toward a particular recommendation that agrees with theirs but they don't try to persuade the prosecutors. The last officer commented, "When I disagree with a plea agreement I'll call to let the county attorney know why and he'll try to persuade me toward the recommendation in their plea agreement."

Sometimes I'll persuade them and sometimes they will persuade me. Sometimes we just agree to disagree."

The next question asked to the county attorneys was if they ever criticized the probation officers for making a particular recommendation. One prosecutor stated that in the four years he had worked in Scott County, he had only called the probation officer once following the sentencing hearing to ask why he/she had submitted their particular recommendation. One county attorney stated he had never done so. The two remaining prosecutors indicated they had criticized the probation officer for their recommendation. One stated, "Probably, but it is very rare. We are usually on the same wavelength." Another prosecutor who stated he criticizes the probation officers two or three times a year replied, "Yes, and they yell back at me. What I usually hear is that they wanted to make my recommendation but the supervisor made me change it."

The probation officers were then asked if they have ever been criticized by a judge, county attorney, or supervisor for making a particular recommendation. Two of the officers stated the judges, to the best of their recollection, have never criticized their recommendations and the comments they make are usually

good. As one officer commented, "The recommendation is a suggestion or opinion and the judges know they aren't bound by it." One officer stated the judge did not directly criticize them for their recommendation but has called and said, "I don't know why you came up with this." With respect to the prosecutors, all three probation officers stated they have been criticized by them for their recommendations. However, this is seldom and is usually in the form of a phone call or in passing. When the county attorneys are critical, they will usually call after the sentencing hearing and ask why they recommended a particular sentence. Furthermore, this is usually when the prosecutors are recommending incarceration and we recommend probation. The prosecutors will want to know why we didn't go along with their recommendation. This finding does not support the notion that probation officers find it necessary to avoid conflict with the county attorneys. With respect to the supervisor, the probation officers stated there are not many disagreements as to what sentence to recommend and when there are, they will discuss it. The supervisor will ask for justification of the probation officer's recommendation, but will also listen to the officer's viewpoint. It was indicated

that the supervisor will defer to an officer's position if their opinion is logically deduced. This is done because the officer has spent time with the defendant. It was related that the supervisor and officers usually reach an agreement as to an appropriate recommendation when there are disagreements. The supervisor, however, does have the final say in a recommendation because he signs the report.

The presentence supervisor was also asked if the judges or county attorneys ever criticized him or the probation officers for their recommendations. He indicated that it has happened rarely from the county attorneys office, but the judges have never done so.

The presentence supervisor was then asked to explain the procedure if he disagreed with an officer's recommendation. He stated this happens occasionally and will ask the writer how he arrived at their decision. He will ask what factors the officer considered and if their recommendation is a logical, factually supported recommendation. He will then ask the officer how he/she would feel about an alternative recommendation which he may suggest. He'll ask if they've considered other factors. In some cases but not many he'll go back and say he thinks they need to recommend something

different. However, if the officer can support their recommendation he may, and has in the past, approved it. Otherwise, he will change the recommendation and look at other options. Once again, this rarely occurs.

Maintaining group cohesion and avoiding conflict within the courtroom workgroup does not seem to alter the decision-making of the members. When there are discrepancies and criticism, it is seldom and it does not appear to influence the members decisions. Nobody in the group appears to be intimidated by other's occasional criticism.

The next question asked to the probation officers was if they ever tailored their recommendations toward what they believed the county attorney judges, or supervisor wanted. With respect to the judges, the officers stated that they never tailor their recommendations toward what they believe the judge wants. In most cases, this would be impossible because the officers are unaware of who the presiding judge will be unless guilt had been determined by a trial. The officers stated they do not tailor their recommendations toward the particular judge even when they know who he/she will be. With respect to the county attorneys, two officers stated they are not influenced by what the

prosecutors want. As one officer stated, "I'm writing the report and I'll recommend what I feel is right." The last officer, however, stated that if he/she was on the fence, he/she would call the county attorney and ask what they think. No officers tailor their recommendations toward what they think their supervisor would want and instead will discuss the case with him if there are differences.

Since the presentence supervisor has the final veto power with a recommendation submitted by a probation officer, he was asked if the recommendations are ever tailored toward what a county attorney or judge wanted. He indicated, "We rarely know who the sentencing judge will be. We never pre-guess judges or county attorneys and don't succumb to their occasional attempts or pressures toward a particular recommendation." He stated it is not necessary to concur with their recommendations to avoid conflict.

As the probation officers are usually unaware of who the sentencing judge will be, they are not avoiding conflict with them by pre-guessing their sentencing decision. Furthermore, the probation officers and presentence supervisor are not influenced by the county attorneys occasional pressures toward a particular

recommendation. They do not succumb to these pressures or find it necessary to concur with them to avoid conflict.

The prosecutors were then asked whose recommendation they felt the judge considered more, theirs or the probation officers? Two of the county attorneys felt the judge considered both equally and that their decisions are made on a case by case basis. One prosecutor stated, "It's hard to tell because the recommendations are usually similar. The judge pays a lot of attention to probation officer's recommendations because the defendant will be stuck with that department, so they give the probation officer some credibility in knowing where the defendant should go." One prosecutor felt the judge may give the probation officer's recommendation a little more credibility than theirs because they have sat down and talked to the offender and may also be more objective than the prosecutor.

The judges were asked, "If the probation officer's and county attorney's recommendations differed, whose would you agree with? Do you consider one more than the other?" All five judges stated they do not consider one recommendation more than the other. In fact, one judge

stated he doesn't consider either because he makes his own decision regardless of the county attorney's or probation officer's recommendation. One judge stated that although he doesn't consider one recommendation more than the other, he will ask the county attorney at the sentencing hearing his/her basis for their recommendation if it differs from the probation officer's. This judge stated there may be differences between the probation officer's recommendation and prosecutor's because the PO has access to the complete criminal history of the offender. Another judge stated he is persuaded more by the facts in the PSI than either recommendation.

The next question asked to all respondents was if they take the view of the community into account in making their recommendation or sentencing decision. The public or community did not include the victim of the offense. The probation officers stated they did not consider the view of the community in determining their recommendation because the public is not aware of the totality of circumstances surrounding a case. One officer indicated he could care less what the community thinks.

The prosecutors, on the other hand, do take the

view of the community into account to a certain extent. One county attorney stated, "We are public servants and should take into account what the public wants, but they don't know everything about the case. We take the view of the community into account but do not make a decision based on what the public says because they are not informed enough about the case." One prosecutor indicated one always subconsciously takes the view of the public into account, although one tries to decide a recommendation based on the objective facts. Another attorney stated that taking the view of the community into account is one of their jobs and if society as a whole advocates something, the prosecutors should abide. Only one county attorney stated he never took the public into account in determining a sentencing recommendation.

The judges stated that they do take the protection of the community and the victim into account in determining a sentencing decision, but do not take the general view of the public or media into account. One judge stated, "A judge has to do what he/she thinks is right despite the media and be prepared to take the heat." One judge related that they are appointed to terms and not elected. He indicated that if they were elected they may need to consider the public more than

they currently do.

It appears that pressures on the courtroom workgroup from the general public do not influence the judges or probation officer's decisions to a great extent. The county attorneys, on the other hand, consider the community somewhat more in their decision-making.

The next question to the respondents was if they consider prison or jail overcrowding in determining their recommendation or sentencing decision. Four of the five judges stated they definitely consider prison overcrowding in their sentencing decision. One judge stated that as a result of the overcrowding, he will only send violent offenders to jail or prison. One judge commented that there are competing interests between the probation department and the county attorney's office. He indicated that the probation staff works for the Department of Corrections and the state. As a result, their caseloads are full and this is why they recommend a lengthy jail sentence. The county, however, tries to maintain a low jail population because of overcrowding. One judge, unlike the others, stated he does not consider prison overcrowding in his sentencing alternative. He related, "If they deserve to

go, I'll send them."

The county attorneys were mixed in their response to this question. One prosecutor stated he always takes prison overcrowding into consideration of a recommendation and three stated they sometimes take it into consideration. One prosecutor commented, "We sometimes ask ourselves why recommend incarceration when we know the judge won't concur because of the overcrowding." It appears by this response that the prosecutors, to some extent, tailor their recommendations toward the sentence they believe the judge will impose. Another stated he didn't usually take overcrowding into account but he knew the judges did.

The entire probation staff does take prison overcrowding into account in determining a recommendation in their PSI. The state has put subtle pressure on the staff to utilize community resources more as a result of overcrowding. All community resources should be exhausted before they will recommend a sentence of incarceration. The officers know this is the philosophy of the department and this influences their decisions. The presentence supervisor will emphasize this philosophy and advocate community

resources if at all possible. The probation staff realizes they are getting directives from the Department of Corrections to ease off on prison recommendations and this dictates their sentencing recommendations.

The respondents were then asked to what degree they take into account the victim impact statement in determining a recommendation or sentencing decision. One probation officer stated that the victim statement makes a big difference in their sentencing recommendation, especially if it is a violent crime against a person. Another officer indicated it depended on the offense. This officer noted that caution must be taken because victims say things that aren't objective and want everyone to be incarcerated. The last officer related that he/she considers the victim statement, but looks more toward the defendant's correctional history. This officer felt the victim statements were more important for the judges. The presentence supervisor stated the victim statements are extremely important but doesn't think they carry the weight that they should. He also noted that it is difficult because the victims always want tougher sentences imposed.

The judges were split on this question with three relating that they read the victim statements but do not

give them much weight. One stated that he can not consider the victim statement to a great extent because he does not know the victim or their credibility. He stated that sometimes the victim overreacts. Two judges stated that they do consider the victim statements because they have a right to be heard as to how the crime affected them. Furthermore, their insight helps in the sentencing decision.

The county attorneys were also split on this question with two of them stating the victim statements are important in their decision making. One indicated they are especially important in determining whether or not to drop or lower a charge. The other two prosecutors stated they read the victim statements but don't pay much attention to them in determining a recommendation because, "They all say we should throw the guy in jail."

Document Analysis

The last phase of this study to be analyzed will be the document analysis of the 228 presentence reports collected from the Iowa Department of Correctional Services. During this phase, four research hypotheses were established to be tested. In all tables used for

the analysis of presentence reports, the independent variable was the probation officer's recommendation and the dependent variable was the judge's sentencing disposition.

Table 2 illustrates the findings from the first research hypothesis which stated, "Sentencing judges are more likely than not to agree with sentencing recommendations of probation officers." The control variable in Table 2 were those cases which require a mandatory sentence from the judge. As such, the remaining 216 cases provide total discretion on part of the judge as to what sentence to impose. As one can see in Table 2, of the 90 cases recommended for incarceration, 75 (83.33%) received the same sentence. Of 126 cases recommended for probation, 119 (94.44%) received probation as a disposition. Of the 216 combined recommendations of probation and incarceration, 194 (89.94%) were followed.

At the .05 level of significance, the critical value for 1 degree of freedom is 3.842. The chi-square for the two variables is 134.85. Since the chi-square value of 134.85 is much greater than the critical value of 3.842, the relationship between variables at the .05 level of significance is statistically significant.

Table 2

Agreement Rate Between Probation Officers and Judges-Controlled For Variable of Mandatory Sentences

DISPOSITION	RECOMMEND		
	INCERATION	PROBATION	TOTAL
INCARCERAN	75 83.33	7 5.56	82 37.96
PROBATION	15 16.67	119 94.44	134 62.04
Missing	0	0	0
<hr/>			
TOTAL	90 100.00	126 100.00	216 100.00

Chi-Square: 134.85 DF: 1 (Prob.= 0.000)

Yule's Q = -0.977

=====
 Consequently, one can reject the null hypothesis. As such, one can reasonably infer that the findings in the sample would hold true of the population from which it was drawn. To further illustrate the strong relationship between the probation officer's recommendation and sentencing disposition one can see from the statistics provided in table two that these two variables produced a Yules Q of -.977. As a Yules Q of -1.0 indicates a perfect relationship between two variables, this statistic illustrates the strong relationship between the variables.

The second research hypothesis stated, "Probation officers and judges agree on sentences more often when

offenders do not have prior offenses as compared with those who do have prior offenses." This hypothesis controlled for mandatory sentences and prior criminal history. By viewing Table 3 which controlled for mandatory sentences and those offenders who do not have a prior criminal history, one can see that of the 7 recommendations for incarceration, 7 (100%) received the same sentence. Of the 53 recommendations for probation, 52 (98.11%) received the same disposition. Overall in table 3, of the 60 recommendations by probation officers, 59 (98.33%) received the same sentence. The gamma for this is 1.0, a perfect relationship.

Table 3

Agreement Rate Between Probation Officers and Judges-Controlled For Variables of Mandatory Sentences and Those Offenders With No Prior Criminal Record

DISPOSITIN	RECOMMEND		
	INCERATION	PROBATION	TOTAL
INCARCERAN	7	1	8
	100.00	1.89	13.33
PROBATION	0	52	52
	0.00	98.11	86.67
Missing	0	0	0
TOTAL	7	53	60
	100.00	100.00	100.00

 Chi-Square: 51.51 DF: 1 (Prob.= n/a)
 Gamma = 1.0
 =====

Table 3 also separately included the cases for which the offender did have a prior criminal history. Of the 83 recommendations for incarceration, 68 (81.93%) received the same sentence. Of the 73 recommendations for probation 67 (91.78%) received the same sentence. Overall, of the 156 recommendations submitted by probation officers, 135 (86.54%) received the same sentence. This computed to a gamma of .961.

To determine if there is a statistically significant difference between the agreement rate of offenders without prior offenses compared to those who do have prior offenses, one computes a difference between two proportions test. Using the data for this hypothesis, $Z(pR-pO) = 3.93$. For a two-tailed test, with an alpha of .05, the critical value is 1.645. Since the $Z(pR-pO)$ of 3.93 exceeds the critical value of 1.645, the null hypothesis is rejected. One can conclude that there is a statistically significant difference between the agreement rate of offenders without prior offenses compared to those who do have prior offenses.

The third research hypothesis stated, "Judges are more likely to agree with recommendations of probation than incarceration." Once again, table 2 is viewed to determine if this hypothesis is supported. This table included all cases with the exception of those for which a mandatory

sentence was required (216). Of the 90 cases recommended for incarceration, 75 (83.33%) were given the same sentence. Of the 126 cases recommended for probation, 119 (94.44%) were followed by the judge in his/her actual sentence. Once again, for table 2 at the .05 level of significance, the chi-square of 134.85 far exceeds the critical value of 3.842. The null hypothesis is rejected and the relationship between variables is statistically significant. It is clearly illustrated in Table two that hypothesis three is supported, judges agree more often with recommendations of probation than incarceration.

The fourth research hypothesis stated, "Where judges disagree with probation officer recommendations, probation officers recommend more punitive sentences than what judges impose." To determine if this hypothesis is supported, it is necessary to view the cases in Table 4 for which the judges did not agree with the probation officer's recommendation. To do this, one compares the 15 cases out of 90 (16.67%) for which the probation officer recommended incarceration but actually received probation, with the 7 cases out of 126 (5.56%) for which the probation officer recommended probation and were actually given a sentence of incarceration.

Table 4

Agreement Rate Between Probation Officers and Judges-
Controlled For Variables of Mandatory Sentences and
Those Offenders With a Prior Criminal Record

DISPOSITIN	RECOMMEND		
	INCERATION	PROBATION	TOTAL
INCARCERAN	68 81.93	6 8.22	74 47.44
PROBATION	15 18.07	67 91.78	82 52.56
Missing	0	0	0
TOTAL	83 100.00	73 100.00	156 100.00

One must now determine if there is a statistically significant difference between the cases for which probation officers recommended incarceration but actually received probation and those which probation officers recommended probation but received a sentence of incarceration. To do this, one conducts a difference between two proportions test. Using the data for this hypothesis, $Z(pR-pO) = 2.55$. For a two-tailed test with an alpha of .05, the critical value is 1.645. Since the $Z(pR-pO)$ of 2.55 exceeds the critical value of 1.645, the null hypothesis is rejected. One can conclude that there is a statistically significant difference between the cases for which probation officers recommended incarceration but actually received probation and those which probation officers recommended probation, but received a sentence of incarceration.

CHAPTER V

CONCLUSIONS AND RECOMMENDATIONS

The findings of this study support those of several previous studies, but refute the findings of others. The first research hypothesis was supported, "Sentencing judges are more likely than not to agree with sentencing recommendations of probation officers." Of the 216 combined recommendations of probation and incarceration, 194 (89.94%) were followed by the judges. It was determined that this relationship was statistically significant at the .05 level of significance.

As expected, the sentencing judges agreed at a high level of frequency with the recommendations of probation officers. Since the agreement rate between judges and probation officers was so high, it was beneficial to determine why. In doing so, the importance of various factors in sentencing decisions among respondents was examined.

It was determined by distributing the Likert-Scale Questionnaires that the variables perceived as most important in sentencing decisions by all respondents were Involvement in Drug/Alcohol Abuse, Number and Severity of Prior Convictions, Seriousness of Current Offense, and Threat to the Community.

These findings support the consensus model which postulates that legally defined offense characteristics play a strong role in decision-making. The findings also support the idea that punishment must be meted out to protect the public. In doing so, one must consider the offender's prior criminal record which is the best variable for the prediction of recidivism. This data reflects the importance of prior criminal history in the minds of probation officers, judges, and county attorneys.

Conversely, the variables which were perceived as being "not very important" across all categories of respondents included Gender, Income Level, and Race.

This finding does not support the conflict theory which states that offender characteristics such as economic status, ethnic origin, and gender are major considerations in the decisions of probation officers, judges, and county attorneys.

The remaining variables in the Likert-Scale Questionnaire were not perceived as "important" or "unimportant." These variables included: Marital Status, Military History, Confinement Status Prior to Sentencing, Length of Present Employment, Age, Education Level, Plea Agreement of Sentence, Offender's Desire for Help, Residency Changes in Last Five Years, Cooperation From Defendant, and

Expectation of Peers.

It is clear that the findings from the Likert-Scale Questionnaires support the consensus model and protection of public ideologies. It is apparent that probation officers, judges, and county attorneys all place emphasis on the same factors in sentencing.

In hopes to triangulate the data found from the Likert-Scale Questionnaires, all respondents were interviewed and asked what factors they felt were most important in determining a recommendation or actual sentencing decision. All respondents felt the two most important factors were the offender's criminal history and severity of present offense. This finding, coupled with that of the Likert-Scale Questionnaires as well as previously published literature, solidifies the belief that criminal history and seriousness of the present offense are the two most important factors in sentencing decisions. Once again, the consensus model and protection of public ideologies were supported from these findings.

It was determined from the interviews that the primary reason there was such a high level of agreement between probation officer's recommendations and judge's dispositions was that they all agree on the same factors in sentencing and see things similarly. It is no surprise that the respondents

expressed this in the interviews, as the Likert-Scale Questionnaires had previously determined this.

It appears that Durkheim's consensus model provides the best explanation as to why the agreement level between probation officers and judges is so high. This is consistent with several previously mentioned studies such as Lohman, Wahl, and Carter (1966), Carter (1967), and Walsh (1985). However, the interviews discredited some of the previous theories with regard to their influence in the respondent's decision-making. Although not quantitatively tested, inferences can be drawn as to whether or not various theories were prevalent in the decision-making of respondents in this study.

One explanation of the relationship between probation officer and judicial decision-making was that the judge, having such a high regard for the competence of probation staff, "follows" the recommendation. It is this writer's belief that this explanation held true to a certain extent in this study. After interviewing the five judges, it was determined that all judges felt the probation officers were "professionals" and performed their duties well. Furthermore, three of the five judges strongly considered the recommendation of the probation officer in their determination of a sentence. Two of the judges did not.

A second explanation regarding the relationship between probation officer and judicial decision-making was that there are several offenders who are obviously probation or prison cases. It is this writer's belief, after conducting the interviews, that this explanation held true to a certain extent. Furthermore, the recommendations are very basic, either probation or incarceration.

This writer feels there are three reasons for the high level of agreement between the probation officers and judges. First, probation officers and judges agree on the importance of factors in sentencing and see things similarly. Second, the recommendations made by probation officers are basic, either probation or incarceration. Lastly, there are many cases which are obviously probation or incarceration cases.

The conflict model espoused that class linked, extra-legal characteristics such as economic status, ethnic origin, gender, age, and family status of the offender play a major role in the court's decision-making. This ideology was not supported in this study, as neither the responses in the Likert-Scale questionnaires or the interviews reflected the importance of the aforementioned characteristics.

As previously mentioned, the consensus model was supported as an explanation of the high relationship between probation officer's recommendations and judge's dispositions.

This model gained overwhelming and convincing support through the Likert-Scale Questionnaires and interviews. All respondents agreed on the importance of factors in sentencing, those being the criminal history of the offender and seriousness of present offense.

The Diagnostic-Rehabilitative Model reflects the idea that decision-making by the courts are influenced by the offender's personal, family and social characteristics. This ideology was not supported by the responses from the Likert-Scale Questionnaires or interviews.

The protection of public philosophy espoused that punishment must be meted out in proportion to the offender's degree of dangerousness to the public. The best predictor of this is the defendant's criminal history. The importance of this variable in decision-making was reflected in the Likert-Scale Questionnaires and interviews. This ideology was supported. By linking the organizational theory to the data collected, one can see that various aspects of the theory were supported in this study, but others were not. It is this writer's belief that the courtroom workgroup was not as influential in the decision-making of respondents in this study as in previous studies. One aspect of the courtroom workgroup is handling cases quickly and efficiently. More specifically, agreeing with the plea agreement of a sentence

to maintain efficiency was an aspect analyzed in this study. This component of the courtroom workgroup was not prevalent in the 7th Judicial District.

The probation officers stated they usually agree with the plea agreement, but are never bound or influenced by them. Only one of five judges felt it was important to agree with a plea agreement. As one judge related, "We're more independent than that. We should do what is right." The prosecutors felt it was not necessary to agree with their plea agreements and that, "Differences in opinion are good." The presentence supervisor stated the occasional conflict between himself and presentence writers does slow down the process somewhat. However, this was not viewed as a negative thing. Instead, it was perceived as an opportunity to learn about each other's jobs and viewpoints. Overall, handling cases quickly and efficiently was not imperative in the 7th Judicial District.

Another aspect of the courtroom workgroup which was not prevalent in the 7th Judicial District was maintaining group cohesion. One aspect of this component is avoiding conflict among all courtroom members. This is sometimes contingent on the familiarity among workgroup members. Furthermore, familiarity depends on the amount of interaction among members. As indicated in chapter four, there is very little

interaction among courtroom members in the 7th Judicial District. This is inconsistent with the findings of previous studies such as Rosecrance (1985). This writer feels there are two reasons for the low degree of interaction among members of the courtroom workgroup in the 7th Judicial District. First, the courtroom organization in this district is large. This reduces the familiarity among members. Secondly, the presentence writers and supervisors, who are employees of the Department of Correctional Services are located in a facility completely separate from the county attorneys and judges. Furthermore, since the probation officers do not attend the sentencing hearings their only contact with the county attorneys or judges may be while retrieving files from the county attorney's office or in passing at the courthouse.

Another way to avoid conflict and maintain group cohesion is to have the probation officers pre-guess the sentence that the judge will impose. Further, the probation officers can avoid conflict with the county attorneys by agreeing with their recommendations in the plea agreement.

It was determined through conducting the interviews that although probation officers are occasionally criticized by the judges and prosecutors for submitting certain recommendations, it does not influence or intimidate the

probation officer's decision-making. As indicated earlier, the probation officers do not "follow" the county attorneys recommendation in their plea agreement to avoid conflict with them. One comment by a probation officer summed up their attitude, "I'm writing the report, and I'll recommend what I feel is right." Furthermore, the probation officers do not pre-guess what sentence the judge will impose and submit that recommendation. This is usually impossible as the probation officers are unaware who the sentencing judge will be, unless the conviction was obtained by a bench or jury trial.

With regard to sentencing recommendations, the likelihood for conflict between judges, probation officers, and county attorneys would be greatest at the sentencing hearing. However, this potential for conflict is eliminated on part of the probation officer, as they do not attend the hearing. Consequently, there is very little conflict to be avoided on behalf of the probation officer.

One can conclude from the interviews that the influence of the courtroom organization on the respondent's decision-making is not as great as in other studies. For example, Rosecrance's study believed the courtroom workgroup was the predominant factor in probation officer's decisions. It was his belief that probation officers, in their recommendations, simply "rubber-stamped the package."

However, as mentioned earlier, each district has its own "personality" which may be dependent on several factors such as region and size of department. Although this writer does not feel the courtroom workgroup is as influential in the 7th Judicial District as in other districts, one should be careful not to overgeneralize the findings of this and all aforementioned studies, as conclusive in all districts.

Hypothesis two was supported, "Probation officers and judges agree on sentences more often when offenders do not have prior offenses as compared with those who do have prior offenses." This difference was found to be statistically significant at the .05 level. One reason for this may be that one of the most important factors in sentencing, prior criminal history, is nonexistent and therefore favors the offender toward a sentence of probation. Without a criminal history, there is less room for argument and debate with regard to a particular sentence.

Hypothesis three was also supported, "Judges are more likely to agree with recommendations of probation than incarceration." This relationship was found to be statistically significant at the .05 level of significance. This writer feels the reason this hypothesis was supported is somewhat related to the reasoning that hypothesis two was supported. If a judge receives a recommendation of

probation, there is a strong likelihood that the offender does not have an extensive criminal history. Once again, since criminal history is an important factor in decision-making with all respondents, there is less room for argument or debate as to a particular recommendation.

Lastly, hypothesis four was supported, "Where judges disagree with probation officer recommendations, probation officers recommend more punitive sentences than what judges impose." This difference was found to be statistically significant at the .05 level. This writer feels hypothesis four was supported because the judges are considering prison overcrowding in the sentences they impose. Although both the probation officers and judges indicated they consider overcrowding in their decision-making, this writer feels this consideration is greater with the judges. Consequently, if a probation officer believes an offender deserves prison and recommends such, the judge, considering prison overcrowding, may be hesitant in imposing that sentence. This writer also feels that prior to the prison overcrowding dilemma, this difference would not be as great.

Although this study demonstrated a relationship between probation officer's recommendations and judges actual sentence, as well as the important factors in sentencing and the possible explanations as to why the agreement rate was so

high, it is not without its weaknesses. It may have been advantageous to compare the county attorney's recommendation with the probation officer's and judge's. It would have been interesting to see if the judges agreed with the county attorney's recommendation more often than the probation officer's. However, although the county attorney's recommendation is often in the plea agreement, this was not always the case. If the offender entered into an open plea, the county attorney did not make a recommendation until he/she did so verbally at the sentencing hearing. Even then, the county attorney didn't always recommend a particular sentence and may leave the decision entirely in the hands of the judge. One could have obtained the county attorney's recommendation in the cases which had it in the plea agreement. However, several county attorney's recommendations could not have been obtained without reviewing the transcripts of the sentencing hearings where the county attorney verbally gave a recommendation. As one can see, this would have been too cumbersome and time consuming for the purposes of this study.

A second weakness of this study is the fact that only five out of the approximately ten county attorneys were interviewed as well as five out of the approximately ten judges. It is possible that the remaining judges and county

attorneys could have had different viewpoints and consequently altered the findings of this study. Time and availability of respondents were factors in the decision to interview five judges and county attorneys.

A third weakness that must be mentioned is the potential for unreliable answers by the respondents. Any time interviews are used, there is always a chance that the respondent's answers are not what they in fact are thinking. Although this writer feels the respondents were honest in giving their answers, this chance for error always exists.

Lastly, one is interested in knowing the policy implications this study provided. First, it would be beneficial to study this subject further to determine the differences in ideologies from district to district. It would be interesting to compare agreement rates of probation officers and judges between rural/urban areas. Second, one must ask themselves after conducting this type of study, "Should probation officers continue to submit recommendations in their presentence reports?" Unfortunately, one can not give a resounding yes or no to this question. On one hand, three judges felt the recommendations were important in helping them determine a particular sentence. On the other hand, two judges did not consider the probation officer's recommendation whatsoever in their decision-making. Lastly,

with regard to the presentence report, several judges felt the following factors in the PSI were either "unimportant," "not important at all," or "neither important or unimportant": Gender, Income Level, Race, Marital Status, Military History, Confinement Status Prior to Sentencing, Length of Present Employment, Age, Education Level, Plea Agreement of Sentence, Offender's Desire for Help, Residency Changes in Last Five Years, Cooperation of Defendant, and Expectation of Peers. Since these variables are not perceived as important by the judges, it may be beneficial to spend more time investigating the factors in sentencing which the judges perceived as "important."

It should be noted that the findings of this study could apply to the districts in Illinois. Despite Illinois' determinate sentencing structure, there is still a large amount of discretion given to judges in the imposition of sentencing. In Illinois, the only offenses which carry mandatory sentences are those that are most serious, including Class X felonies and a select few drug offenses. It is seldom that an offender is convicted of a Class X felony, as these are usually plea bargained down. The remainder of the felony offenses in Illinois, Class 1 through Class 4 felonies, carry the potential for a sentence of prison, jail, probation, or a combination thereof. As one

can see, the sentencing structure in Illinois is similar to that of Iowa in the respect that the judiciary are granted a great deal of leeway in sentencing decisions. Hence, one would also expect the recommendations contained in the presentence reports in Illinois to be important guideposts for judicial decision making.

Continued research in the area of recommendations submitted by probation officers in their presentence reports, as well as the factors contributing to probation officer and judicial decision making is justified as their decisions continue to affect thousands of convicted offender's lives each year.

APPENDIX

The following factors are important considerations in determining a sentencing alternative.

DEMOGRAPHIC FACTORS STRONGLY AGREE = SA, AGREE = A, UNDECIDED = U, DISAGREE = D STRONGLY DISAGREE = SD

Gender	SA	A	U	D	SD
Alcohol/Drug Involvement	SA	A	U	D	SD
Income	SA	A	U	D	SD
Prior Criminal Record	SA	A	U	D	SD
Race	SA	A	U	D	SD
Psychological History	SA	A	U	D	SD
Family Stability	SA	A	U	D	SD
Seriousness of Offense	SA	A	U	D	SD
Military History	SA	A	U	D	SD
Confinement Status	SA	A	U	D	SD
Employment History	SA	A	U	D	SD

Age	SA	A	U	D	SD
Education	SA	A	U	D	SD
Plea Agreement	SA	A	U	D	SD
Desire for Help	SA	A	U	D	SD
Residence Stability	SA	A	U	D	SD
Degree of Cooperation	SA	A	U	D	SD
Threat to Community	SA	A	U	D	SD
Expectations of Peers	SA	A	U	D	SD

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