

Communication Between Probation Officers and Judges: An Innovative Model

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PROBATION, LIKE other areas of criminal justice, has undergone tremendous growth in recent years. The response to growth, in itself, has created problems. One area that has been affected but that has received little attention in the literature is the relationship between probation officers and judges. Taking a systems perspective, this article looks at the bureaucratization of probation with regard to the court service probation provides and reports on a study of communication between judges and probation officers in Santa Cruz County California.

Like judges, probation officers are charged with weighing the benefits and the risks of any court action affecting the probationer. Judges traditionally have depended on probation officers' balanced judgments, provided in the form of recommendations, to assist them in determining sentences. Communication takes place formally, usually in written reports to the court, with recommendations for the treatment of offenders. Another less formal but more direct means of information exchange, only hinted at in the literature, is presenting information orally in the courtroom. Given the significance of the relationship between probation officers and judges, effective communication is essential if probation is to remain viable.

Factors Influencing Communication

While a variety of factors such as plea-bargaining and determinant sentencing law may have contributed to a decrease in probation officer influence in sentencing, other environmental factors such as workload also have had an effect. An ever-increasing workload appears to have bureaucratized procedures, decreased communication between probation officers and judges, and impeded the expeditious and individualized handling of cases.

The dramatic increase in workload in recent years has made officer communication with the court increasingly difficult (Ellsworth, 1990; Hill, 1994; Mills, 1990). Since the 1980s, the number of individuals on probation has steadily increased. From 1983 to 1992, there was in California a 24 percent statewide increase in probation officers while case-loads grew by 73 percent (Hill, 1994). Large workloads and scarce resources have had impact on the courts. Court workload has increased despite the fact that cases are dispatched more rapidly than in previous years (Champion,

1987). Judges are often faced with the decision to handle matters before them expeditiously or to delay a matter to another court date for more detailed information from a probation officer in the form of a written report.

Roles of the Probation Officer

In addition to being a sentencing advisor to the court, the probation officer is counselor, director to resources, and authority figure to monitor probation compliance and community safety. The probation officer prepares various types of reports for the judge. Presentence reports are prepared in all felony cases unless attorneys and the judge waive them. The presentence report traditionally has been an important source of information that may not have been obtained in the process of determining guilt. It includes information on the defendant, victims, and the offense and concludes with a recommended sentence.

Many probation departments separate pre- and post-sentence functions into two job categories of probation officers. Whereas the presentence investigator's duty is to prepare the presentence report, the supervision officer's duty is to ensure that the probationer complies with the orders of the court as set out in the probation terms and conditions. The presentence investigation officer's encounter with an individual typically consists of one extensive meeting before sentencing while the supervision officer maintains an ongoing relationship until the probationary period is completed.

Supervision officers ideally spend their time directing probationers toward rehabilitation but, in reality, spend a great deal of time reporting violators to the court (Koehler & Lindner, 1992). According to a State of California Legislative Analyst report on the state's probation system, seven out of every ten felons under jurisdiction of the courts are on probation (Hill, 1994). The rise in felons on probation has contributed to a preoccupation with the enforcement role of the probation officer in the literature and innovations in the field in recent years (Harris, 1987; Lawrence, 1990). Rehabilitative efforts and service to the courts have been strained by the increase in workload generated by the increasing numbers of felons on probation (Ellsworth, 1988; Lawrence, 1990; Lindner, 1991).

Probation and Court Proceedings

In spite of the pressure of workload demands to move a case efficiently through the court process, amazingly little research has been conducted on the effectiveness of a pro-

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bation officer in the courtroom. Eisenstein and Jacobs' (1991) pioneering work on the courtroom workgroup gave no recognition to the role of the probation officer in the courtroom. The only relevant work found in the authors' review of the literature which addressed a probation officer's oral contribution in court proceedings was an analysis of British courts (Carlen, 1979). It gave considerable recognition to the probation officer's influence in court proceedings.

The area most studied in the relationship between judges and probation officers is the presentence report (Carter, 1966; Carter & Wilkins, 1967; Campbell, McCoy & Osigweh, 1990; Gibson, 1973; Trever, 1978). These studies primarily support the importance of presentence reports in sentences received, particularly when probation is recommended (Lohman, Wahl, & Carter, 1966; Carter, 1969; Campbell, McCoy, & Osigweh, 1990).

Hagan, Hewitt, and Alwin (1979) present a different perspective regarding the probation officer's influence in the sentencing process. They note that the influence of the presentence investigation report previously had been studied in samples where presentence reports were requested and argue that a good assessment requires a broader view. This broader perspective offered by Hagan, et al. (1979) looks at the roles of the prosecutor, the judge, and probation officer. In their analysis of 504 randomly sampled court cases, they contend that the presentence report was largely "ceremonial, preserving the myth of individualization in the court process." They assert that criminal courts have responded to the "potential disjunction between individualization and efficiency by expanding the decision-making network."

Sentencing recommendations not only are presented to the court by the probation officer, but by the prosecutor. Over 90 percent of all criminal convictions in the state and federal courts are obtained through plea bargaining (Champion, 1987; Langbein, 1979). The opportunity for the prosecutor to effectively circumvent the probation officer's report is great, given that pleas and sentences are often arranged before a presentence report referral:

The prosecutor's recommendation for sentence is presented orally in court, while the probation officer's recommendation is submitted in writing as part of the presentence report undisclosed to the offender or to members of the public [until after sentencing for a limited period of time]. The failure to disclose the probation officer's recommendation can conceal the fact that an elaborate presentencing process aimed at individualization has effectively been ignored. (Hagan et al., 1979, 510)

Hagan et al.'s (1979) work recognizes that the need for efficiency has resulted in the expansion of the district attorney's role in the decision-making process. They add that the larger role of the district attorney in this process appears to be inversely related to the probation officer's direct influence in court decisions. They suggest that a tighter coupling between the judge and the district attorney may result in less individualized justice because social history information does not get presented to the court for consideration at sentencing.

Determinate sentencing law, therefore, is not the only explanation for a loss in individualized justice, nor has it

effectively removed the need to consider the individual since most felons are granted probation, not sent to prison with determinate sentences.

The Loosely Coupled Justice System and Bureaucratization

Early systems theory viewed the organization as an organic whole. Today's systems theory has taken a more complex view:

In contrast to the prevailing image that elements in organizations are coupled through dense, tight linkages, it is proposed that elements are often tied together frequently and loosely. (Weick, 1976, p.1)

Loose coupling refers to the independence retained among sub-systems that are otherwise responsive to one another. Tight coupling is indicated by a high level of coordination while loose coupling is indicated by a high level of autonomy among subsystems. Depending upon the task or particular goal at hand, sub-elements or agencies may be loosely or tightly coupled. Coupling is a fluid and changing phenomenon that may vary greatly and may change with time.

Various researchers have explained the criminal justice system as a loosely coupled system (Cuvelier & Jones, 1992; Hagan 1989; Welsh & Pontell, 1991). The justice system is composed of a variety of agencies—police, judges, district attorneys, probation officers, or public defenders—all working under the principle of doing justice. Additionally, these agencies have independent sub-goals, some of which are a point of conflict between them. Conflict is a built-in feature of the adversarial justice system, but conflict may exist for other reasons as well. For example, two agencies of the justice system that typically work toward similar goals may find themselves competing for the same funds and resources. Change in one element of a loosely coupled system may have a ripple effect on other elements. A shifting of resources, changing needs, and changes in political environments may act as catalysts to tighten (Welsh & Pontell, 1991) or loosen coupling (Hagan, 1989, pp.124–125).

The research by Hagan et al. (1979) showed that the tighter coupling between the judge and the district attorney loosened the coupling between the probation officer and the judge to such a degree that researchers referred to the presentence investigation report as "decoupled" and taking on a "ceremonial" role rather than being crucial or essential in the presentencing process. The term "decoupled" meant that the sub-elements operate independently and are unresponsive to each other.

In the research by Hagan et al. (1979), the demands for efficiency due to workload caused a shift in coupling while Welsh and Pontell (1991) found an eventual tightening of elements throughout the system after court intervention over jail overcrowding. These studies indicate that workload, in addition to changes in the political environment, may be a variable influencing the coupling and potential decoupling of elements in a system.

While Max Weber introduced a benign bureaucracy in the 1800's aimed at increasing efficiency and productivity,

bureaucracies today are associated with lack of initiative, inflexibility, indifference to human needs, and “red-tape.” Probation work today has been characterized as a bureaucratization of procedures. Face-to-face contacts in the field and in the office have been endangered by large caseloads and the associated paperwork probation officers have come to rely on as a method of conducting supervision (Lawrence, 1984; Mills,1990). Keeping up with complicated sentencing law (Holt, 1995) has resulted in further bureaucratization of probation work in many jurisdictions. It has induced specialization between presentence investigation and supervision roles and a “production line” approach to job tasks.

Tepperman (1973) studied the effects of court size on bureaucratization. He found that: 1) a greater degree of case standardization occurred in the larger courts; 2) less individualization took place as the court size increased; 3) smaller courts were able to reach dispositions faster than medium and larger courts; and 4) it took less time to find services for offenders in the smaller courts. Tepperman speculated that this was due to the informal nature and greater intensity of communication among the court officials, probation officers, and service providers.

The criminal justice system has been labeled a non-system by various researchers. It may be more appropriate to view a lack of observed coordination between criminal justice agencies as loose coupling. This language gives way to a perspective that is not static and acknowledges the flexi-

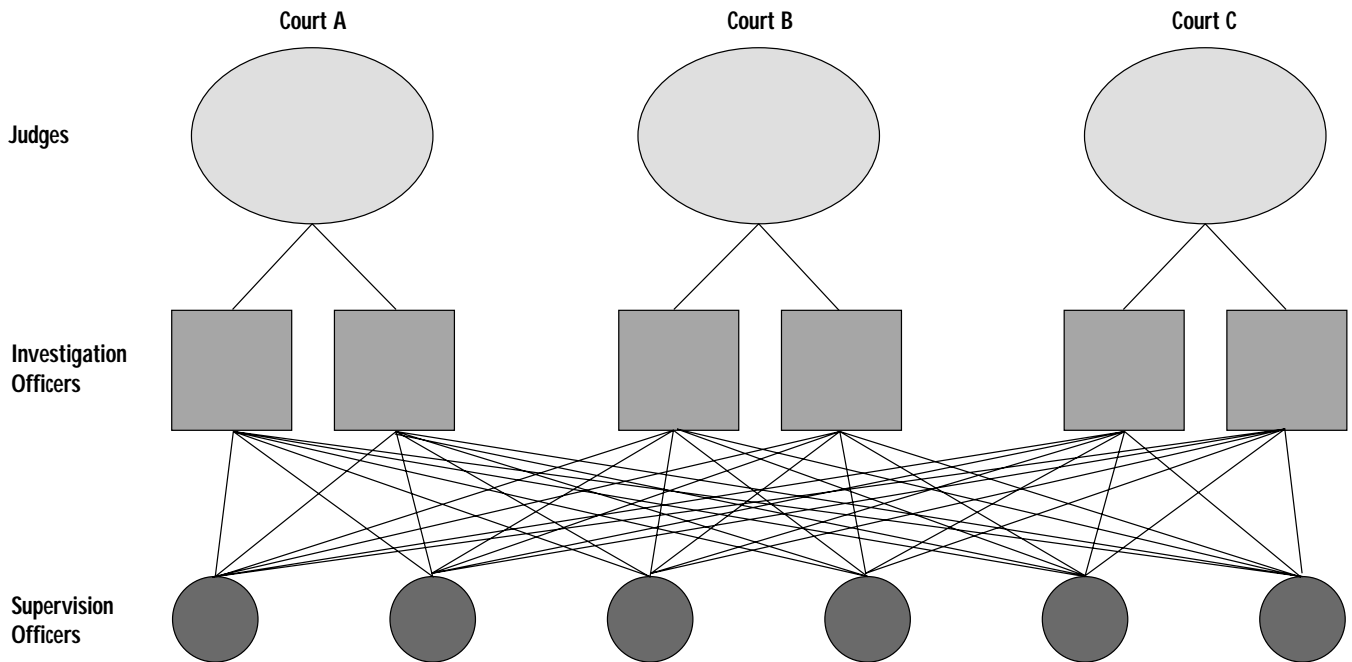
bility of a changing system that is responsive, both proactively and reactively, to the environment.

The Santa Cruz County Court at time of Study: Judges and Probation Officers

The study was conducted in the justice system of Santa Cruz County, California. The felony courts in Santa Cruz County adopted a system referred to as “felony teams” or “vertical prosecution” in an attempt to cut bureaucracy and streamline court processes. The felony team approach maintains continuity of professionals assigned to a defendant’s criminal cases. The same judge and prosecutor handle a defendant’s criminal case and subsequent cases through the entire court process. Although this has been an improvement, Tepperman’s example of bureaucratization still can be seen in the communication network that exists between probation officers and judges in these courts.

There are presently three felony criminal courts. Each court has a morning criminal calendar, which contains arraignments, sentencing, motions, modifications, and probation violations. Investigation probation officers provide courtroom coverage, not because the court work is more pertinent to their work, but because the thought was that they could more easily handle the extra job responsibility. Supervision officers’ caseloads were approximately 200 probationers each while referrals for presentence reports had dropped. According to a division director for the probation

FIGURE 1.
THE SYSTEM OF INFORMATION PATHWAYS BETWEEN JUDGES, INVESTIGATION OFFICERS,
AND SUPERVISION OFFICERS IN THREE FELONY COURTS.



department, the referrals began to drop in the late 1980's (over a decade after determinate sentencing law went into effect in California). This occurred after the probation department administrative staff told the courts that the department was inundated with referrals for presentence reports.

Figure 1 is a schematic representation of the exchange of information under the "existing system" at the time of this study. The investigation probation officers go to court to represent the cases belonging to the supervision probation officers. The supervision officers therefore must provide information to the investigation officers so that they may adequately cover the case in court. A concern is that this represents a red-tape bureaucratization lacking a sense of "ownership" among employees and direct communication among justice professionals.

With an ongoing demand for efficiency in court proceedings, an increase in discretionary power of the district attorney, and bureaucratization of probation in the face of workload demands, exploration into the usefulness and potential efficiency of probation service to judges is imperative if probation is to provide viable service to judges. This study attempts to determine the value of the probation officers' recommendations and explores the communication between probation officers and judges in felony courts, primarily from the perspectives of judges. Based on this research, the authors proposed a model that subsequently was implemented in Santa Cruz County.

Methodology

The researchers suspected that bureaucratization and workload had induced loose coupling. Pinpointing causation, however, is not the intention here; it is instead to explore, through relevant data, the communication between judges and probation officers and to determine the need for improvement. Since probation officers work by mandate for the court, emphasis is placed on judges' perceptions. The following broad research questions dictated the data sources in this study:

- 1) How do felony court judges perceive the quality and efficacy of probation service?
- 2) How do probation officers perceive probation service in the courtroom?
- 3) Does the activity in the courtroom corroborate the perceptions of judges and probation officers?
- 4) Does this point to a need for improvement of courtroom service?

The data sought to answer the research questions came from three primary sources: 1) the Santa Cruz County felony judges; 2) the Santa Cruz County probation officers with caseloads of adult offenders; and 3) documents of court outcomes pertaining to probation. The three data sources and methods are summarized below.

Judges Interviews

Interviews with judges were chosen as the most direct method of obtaining judicial perceptions of courtroom service. Five judges were interviewed during late 1994 and early 1995. Their time serving as judges ranged from 3 months to 17 years. This constituted the entire population of felony judges: three judges who presided over the three felony courts and two who were soon to be transferred to felony courts. One of the judges had no prior experience on the criminal bench and participated minimally for that reason.

Interview questions were formulated to determine whether the felony court judges: 1) would like active participation from probation officers during court proceedings; 2) would like improvement in the service probation officers provide them in the courtroom; and 3) would prefer to have the officers in court who supervise the probationers they sentence (i.e., more direct communication).

Two interviews were used. The first interview included unstructured general questions to allow the judges to express their own definitions of any problems existing between the courts and probation and to avoid acceptance of the researcher's definition of the situation. This is in keeping with the "elite interview" technique developed by Dexter (1970), which promotes the use of the professional expert interviewee in defining problems to the interviewer and an interviewer who has a working knowledge of the subject. A second interview focused specifically on the judges' perceptions of probation service in the courtroom.

Probation Officer Survey

Surveys were constructed to assess the perceptions of all the investigation probation officers and all the general supervision probation officers regarding courtroom service (four investigation officers and six supervision officers). Investigation and supervision officers with caseloads of adult offenders were given surveys in early 1995 that contained questions to assess the level of satisfaction with the existing system of courtroom service. The instruments contained questions to determine whether they wanted improvement and more direct communication between judges and probation officers. Surveys included ranked responses to questions as in a Likert scale, a list of statements to be ranked in order of applicability, and a sentence completion regarding how officers felt the system could be improved.

Court Data and Client Contact

Daily court calendars noting all court action pertaining to probation matters in the three felony courts from April through June 1994 were analyzed to determine whether survey findings are supported by events in the courtroom. Additionally, the number of formal probation grants ordered with and without presentence investigation reports from January through May 1995 were obtained to determine indicators of loose coupling between probation officers and judges.

The sample sizes of judges and probation officers are small in this study, but they do represent all the Santa Cruz County court workers involved in the study area. Another limiting factor is that the researcher works as a probation officer in Santa Cruz County. This may have influenced the findings, particularly those obtained from probation. Direct interviews with probation officers were avoided and anonymous surveys were given for this reason. Emphasis is focused on the judges. It should be noted that the elite interview technique calls for an interviewer informed in the research area.

Findings

The following section presents the findings from the three data sources. The elite interviews with judges are presented independently. For the sake of brevity, only the key issues that surfaced in structured interviews with judges and in the surveys of probation officers and judges are presented. This section concludes with a presentation of archival data collected from the courts and probation records.

Interviews of Judges

Judges recognized the difficulty in achieving the goal of probation, particularly with the voluminous workload. They emphasized the importance of the probation officer's independent judgment expressed in the form of recommendations for court action. They expressed frustration with the information they receive from probation in that it is not direct and immediate. They noted a tendency to treat dissimilar cases similarly. While they understood this response to workload, they want better and more immediate information. The following is a summary of the common points judges made.

Workload and Probation Officer Roles. Three out of the four judges mentioned the increasing workload demand as one of the more notable changes affecting the relationship between judges and probation officers. Cutbacks in probation services and the diminished quality of supervision of felony probationers due to the large caseloads were mentioned:

Ideally, probation officers would have caseloads of thirty of the hardcore offenders. Assuming the ideal caseload is not going to be achieved, I would at least like to see supervision caseloads [as opposed to other areas in probation] not get the short end of the stick. It seems that a response to cutbacks is to increase the supervision caseload. I think, overall, probation does the best it can considering the conditions. Probation has been treated like the stepchild of the system. We spend too much money at the "backdoor" instead of the "front door."

Most of the judges brought up the need for the probation officer to combine a rehabilitation role with an enforcement role. As one judge explained, "Probationers should be made accountable to society. Concomitantly, they should be given direction and encouragement not to recidivate." Enforcement of the court's directives is important to the judges; however, they ideally like to see probation officers help probationers get the resources and direction they need to keep from reoffending. Two of the judges stressed that the primary goal is to assist defendants toward rehabilita-

tion. One of the areas that pleased judges most was seeing probation officers make successful interventions through a coordination of resources. As one judge stated:

I think primarily it [the role of the probation officer] should be assisting probationers in rehabilitation—helping them get themselves on their feet in the community so that they can function without being institutionalized—without being dependent on anyone. Obviously, with some individuals, they have to act like policemen. They need to isolate those who are receptive to probation services from those who are not, and who, left to their own devices, get arrested again. ...I am particularly pleased when something constructive is done by getting people together to deal effectively with a particular or unusual problem—a coordination of resources.

Independent Judgment and Recommendations. Another area each of the judges touched upon was the value of probation officers' recommendations presented in the form of written and oral reports to the court. One judge stated that he trusts an active and contributing probation officer to provide him the best information. He explained that this is because the probation officer's recommendations can come from a position of neutrality, unlike those of the district attorney and defense counsel. Said another judge:

What I value most is when a probation officer speaks his/her mind. In my opinion, the probation officer should be independent of the judge, the prosecutor, and the defense. He or she should not be influenced by the plea and should take an independent viewing of the case and recommend accordingly. The probation officer may disagree with the plea based on factors the judge has not had the opportunity to consider. It may very well be that, after consideration of these factors, the judge will agree completely with the assessment the probation officer has made. Recommendations should be independent, objective, honest, and should be made on a case by case basis. Probation officers should not become hardened by the routine. They should avoid thinking of recommendations in terms of the *average* or *typical* case.

This judge felt that probation officers frequently treat cases similarly and offer "typical" recommendations. He cautioned against doing this and elaborated on the importance of independent viewing on a "case-by-case" basis. Another judge said that his relationship with probation has improved considerably over the years; however, the tendency to lump cases together is something that has frustrated him. He said, "In my opinion, there has been an apparent lack of recognition between the difference of somebody who is on probation for possession of cocaine and somebody who is on for armed robbery."

Direct Communication. All the judges indicated that direct and informed communication in the courtroom was important to them. Having probation officers in court who can speak clearly and articulate their position was what one judge said he would like most. Another judge stated:

I am pleased most when I have a human being expressing an opinion in my courtroom and it's an honest one.... I value a free-flow of ideas and discussion, as I feel that the outcome will be better. I actually feel more comfortable with disagreement because I know that I can trust that it is honest and not meant merely to please the court.

All of the judges mentioned good communication from the probation officer as being very important to them. One judge said, "Paperwork is nice, but direct communication

can cut through the bureaucracy. That way, things don't have to be calendared and people don't have to be rounded up." He went on to say that communication could improve by:

...having a knowledgeable probation officer in court to cut through the crap and be able to make some decisions in court without having to serially continue probation matters in order to get more information from the probation officer. ... It may be a case of someone who got sloppy with reporting to his probation officer that we could take care of on the spot. The court [probation] officer would much rather the defendant stay in custody another two weeks and be interviewed by their regular probation officer for a report, when it is my feeling that I could get the information in two minutes. The DA is supposed to run a *rap* [criminal record] on the individual before they come into court. If there are no other warrants and it is a simple matter, why keep an individual in custody another ten days and have the guy lose his job and make matters worse. Sure, some people have no reliable explanation and get what they deserve, but there is a need for more aggressive decision-making in court.

Another judge said:

It is also pleasant, every once in awhile, when after the defense attorney, the district attorney and I have put together some disposition—if for no other reason, to expedite matters on somebody well known to the probation department—and the probation officer says, "Wait! Halt! We can't do this again. We all know this is not going to work."

Courtroom Coverage and Preparation. Judges noted frustration with the courtroom coverage arrangement in which court probation officers were not active in court and did not seem to be prepared or know the cases that came to court. One judge said it was important, "to know the file and to know the probationer." Another judge commented:

I am frustrated with the lack of familiarity with files. We get a probation officer that is a mouthpiece on another officer's case more often than not. ... In court, the officer is often not familiar with the file and cannot answer the questions I have.

All the judges commented on the value of competent service in the courtroom and said that improvement was needed. One judge specifically suggested that supervision officers be assigned probationers by court, in line with the vertical prosecution system, as he felt it would present probation the opportunity for more direct involvement in court cases. Another judge elaborated:

I would like probation officers to have the ability to be active in the court process and to be able to make a recommendation in each case. The potentially most effective tool in the justice system is probation. It is unfortunate, but probation has become a bad word. It is seen as ineffective and that has to do with the tremendous workload. There is a need for real casework.

Judge and Probation Officer Surveys

Judges receive information in court from the investigation officers, who receive information from the supervision officers. Separate questionnaires were designed and administered to judges, supervision officers, and investigation/court probation officers; many similar areas were covered in the surveys. The findings of the supervision officer and investigation officer are presented together as there was general consensus in the data.

As was the case in the unstructured interview, judges

showed agreement in their responses to the structured questions. While judges generally want a direct system of communication where probation officers can be present on their own cases, they felt that the officers who were not directly involved in the cases tended to be unprepared and ill informed.

When information they request in court is not available, judges said that they: 1) "frequently" keep an individual in custody longer; 2) continue or delay a case until they can get the information they desire; 3) request either a supplemental report or the court presence of the probation officer assigned to the case; and 4) "sometimes" release an individual prematurely from jail.

Probation officers also felt that a direct system of communication between the judge and the probation officer handling a case would be an improvement, would increase the chances of matters being handled in court, and would cause fewer delays. Even when new information came out in the court process, probation officers did not feel comfortable changing the recommendation on a case assigned to another officer. They also did not feel comfortable conducting a short interview with a probationer in the courtroom and offering the judge a recommendation on a case assigned to another probation officer. Probation officers felt that court delays would be fewer if officers were present in court on their own cases.

The perception that delays would be fewer, information would improve, and communication would be freer if probation officers directly represented their own cases was the common and recurrent point that emerged from the judge and probation officer surveys. This was particularly apparent in written responses about how courtroom service could improve. As one probation officer stated in the survey, court coverage would best improve if there were "more direct communication [and] probation officers could go to court with their own probationers. I would like more communication, input and information with the DA and the Public Defender." Another probation officer said that the court officer position would best improve "by having probation officers represent their own cases in court. [One judge] does that and seems to go with probation's recommendation 90 percent of the time."

Court Data

Individuals placed on felony probation with and without a presentence report were tracked from January through May 1995. Of the 639 individuals placed on probation, 377 or 59 percent were sentenced without a presentence report. These data indicate change according to probation staff who said that formal felony probation grants without presentence investigation reports were rare 5 years before this study.

All cases in court pertaining to probation during the months of April, May, and June 1994 were tracked. Nearly two-thirds of the cases (342 out of 574) involved people already on formal probation. These data would appear to corroborate the statements by judges and probation officers that supervision officers need to be in court.

The court data indicated that, while judges have dramatically decreased soliciting probation officers in their decision making about granting probation or alternate recommendations, probation appears to remain the popular sentencing choice.

Summary of Findings

While the judges in Santa Cruz County felony courts understand the workload demands of probation officers, they are not satisfied with probation's courtroom service arrangement. This primarily is due to what judges perceive to be a lack of preparation and a lack of direct involvement with cases in the courtroom. Probation officers also would like to see the court officer more directly involved with cases. The court data support the judges' and probation officers' views as the data reveals that the service provided in the courtroom is not direct. The rate of referrals for presentence investigations indicates a lack of input on felons' sentences in more than half the cases.

Discussion

The data presented here indicate that factors other than determinate sentencing law and a law-and-order environment must be considered to explain the standardization of criminal sentences. The drop in presentence investigation referrals began over a decade after determinate sentencing law went into effect. Increased workloads have added to the problem.

Two of Tepperman's (1973) key findings on court bureaucratization were observed in this study: the standardized treatment of cases (as noted by judges who cautioned against the tendency to treat cases routinely by making a "typical" recommendation) and a decrease in the quality of interaction as the communication network among professionals increases. The court data, as well as the perceptions of judges and probation officers, indicate that the service to the courts suffers from an indirect and complicated network of communication. The number of formal probation grants without a presentence investigation report indicates a decrease in communication between judges and probation officers. According to Hagan et al. (1979):

...reliance on the professional judgments of probation officers is a workable solution to the disposition dilemmas of individualized justice only insofar as these recommendations do not seriously impede the efficiency needs of the court organization. It is only under these conditions that the organization can function as a tightly coupled system. Alternately, a problem arises when efficiency needs require outcomes different from those recommended by probation officers. It is under these circumstances that decoupling becomes a means of ceremonially preserving the myth of individualization. (p. 510)

A loose coupling, if not "decoupling," has taken place between judges and probation officers in Santa Cruz County. Decisions directly affecting probation are being made regularly in the courtroom without the input of the probation officer involved. The alarming aspect of this trend is that the balanced, nonpartisan view of the probation officer, which can bring forth an independent source of infor-

mation relevant to justice, may be lost. Findings suggest that decoupling is not due to a lack of appreciation of the potential for probation to be a valuable asset to judges. Rather, it has to do with the incompatibility of organizational function with current court structures. The decoupling does not appear to be a result of conflict. It appears to be a consequence of bureaucratization in times of a growing workload.

Judges desire and value information from the probation officer. Given that a felon is far more likely to be placed on probation than in prison, taking the *individual* into account is essential if the most appropriate probation terms are to be selected. These findings support the need for a systems perspective combined with ongoing analysis of field data. A tighter coupling between probation officers and judges would promote individualized justice. This tighter coupling will not occur unless efficient strategies are in place.

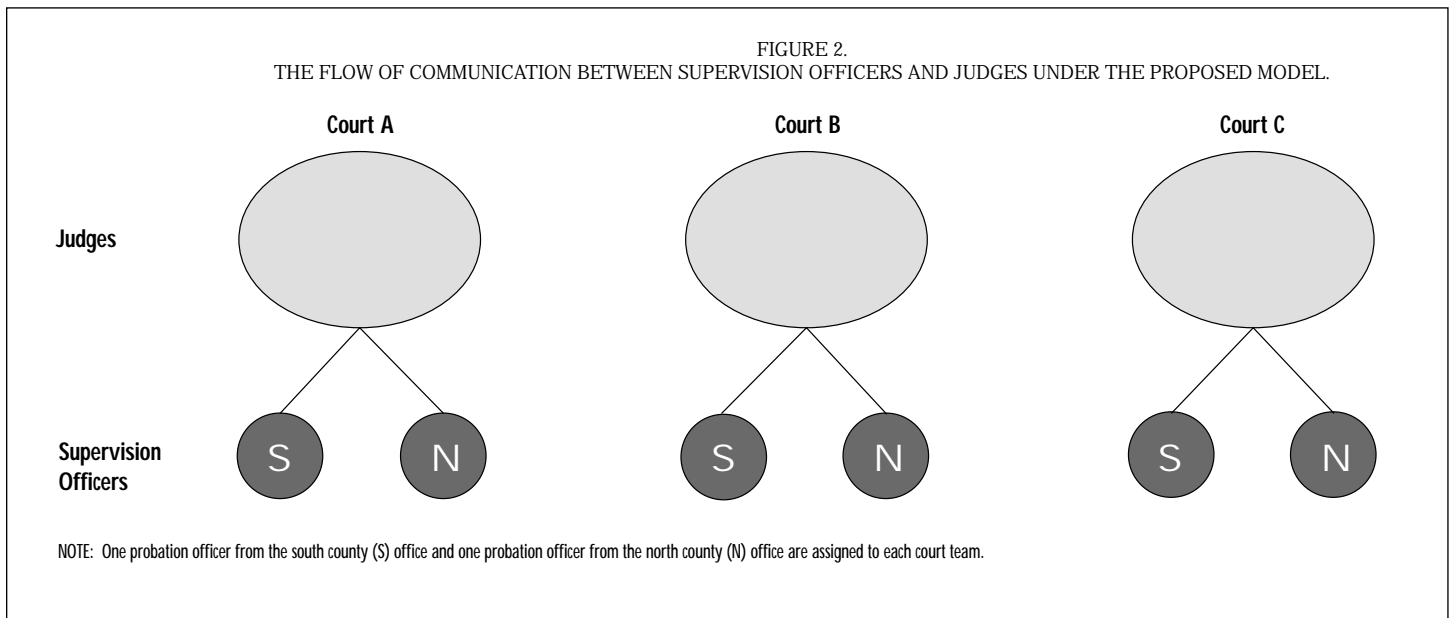
The Proposed Model

Based on the research, the authors proposed the following model, which was subsequently implemented in Santa Cruz County. If one were to draw a schematic representation of bureaucracy, one might come up with something similar to figure 1. By revisiting this figure, we can see the conditions under which problems thrive. With two potential court officers covering one of three courts in order to receive and give information to a judge and to any one of six supervision officers, the dissatisfaction among professionals working under this system is easy to understand. Supervision officers are reviewing cases and giving notes to investigation officers, who also are reviewing the same cases. The structure, with regard to the flow of information, is hierarchical and reflects the bureaucratization of courtroom service.

Private industry in recent years has recognized problems associated with hierarchical structures (Graham, 1994). Teamwork has been used innovatively to combat these problems and has been widely recognized as successful. Small teams are more effective than individuals or larger groups (Katzenback, 1993).

Santa Cruz County's system of vertical prosecution fits with the proposed model for Santa Cruz County courtroom service shown in figure 2. Unlike a hierarchical model, the structure is relatively flat. Unlike what happens in a red-tape bureaucracy, the flow of work is simplified through a more direct approach created by teams. Cases are assigned to one court (or judge) rather than dispersed among three courts. This structure should produce the benefits associated with teamwork and create tighter coupling between judges and probation officers.

Motivation to be well informed and to avoid standardized treatment of dissimilar cases is likely to be enhanced by the "ownership" of direct service. This proposed model of direct service empowers the probation officer to: 1) expedite the court process; 2) decrease the need for continuances for interviews and supplemental reports, which can reduce jail time; 3) increase contacts with probationers and individuals



significant to probation cases; 4) make referrals for probationers to services from court; 5) gather information relevant to the supervision of offenders; and, 6) become involved in the negotiation of a case predispositionally.

The proposed model (referred to as “court teams”) was implemented as a direct result of this study. The team concept was extended to the three investigation officers who were each assigned to a court as a team as a supervisor and investigator. Since implementation, judges have noted that the new system is an improvement. One judge commented that the probation officers now have impetus to handle matters in court whereas they did not under the previous system. A public defender noted to one of the authors that probation officers are giving out cards and phone numbers directly after sentencing and that this did not occur previously. A bailiff from one of the courts commented that the new system has reduced jail overcrowding in that more matters are handled in court rather than referred back to the probation department for a supplemental report. Anecdotal evidence from judges, probation officers, and public defenders has indicated that the system has greatly reduced continuances and excessive jail time previously used to obtain information through written reports. Judges and probation officers have commented on a more expeditious and individualized handling of cases. Probation officers have expressed increased job satisfaction now that they have more influence in the courtroom.

Tight coupling could produce a loss of conflict that should take place in an adversarial process. Furthermore, a tightly coupled court team could become decoupled from the other courts. Ongoing evaluation should be conducted to maximize benefits and reduce negative consequences.

Implications for the Future

The findings of this study lend support to the theory that bureaucratization and loose coupling have occurred in the

court service probation provides to judges. Changes in response to the growing workload demands have negatively affected communication between judges and probation officers. One negative consequence of loose coupling or decoupling is observed in this and other research (Hagan et al., 1979): the independent voice probation officers can provide to judges is in jeopardy. This may be a significant impediment to justice in that the non-adversarial voice of the probation officer, unbound by a predetermined position, has become increasingly removed from court proceedings.

We need to consider further the value of the probation officer in the courtroom as a means to bring this voice back into the court process. The Santa Cruz County Felony Courts’ adoption of vertical prosecution has presented an opportunity to improve the communication between probation officer and judge. While probation departments vary in size and structure, the literature reviewed suggests that the findings in this study may be relevant to other jurisdictions; large caseloads and bureaucratization are universally recognized problems in today’s criminal justice system.

The model proposed will not solve all of the problems facing probation. The need for more staff to create smaller caseloads is ongoing. This continues to be one of the biggest obstacles to providing high quality service. This should not, however, preclude using innovative developments to tackle some of these problems. By viewing probation as a sub-system of the larger justice system and by recognizing that changes in one sub-system not only affect the other but also can be used as an opportunity for change, we can begin to find innovative solutions.

Anecdotal data indicate that the proposed model has been effective in Santa Cruz County. We recommend research to determine how and to what extent the relationship between probation officers and judges has improved since implementation of the proposed model. Efficiency improvements and the increase in individualized handling of probation cases should be evaluated. Improvements, such

as a reduction in the jail time that is used only to obtain information, should be studied as well. Other jurisdictions may relate to the problems studied in Santa Cruz County and also may find strategies similar to the proposed model to be effective.

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