

## COURT AND PROBATION STATISTICS

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History of Criminal Court Statistics

During the past century, the development of criminal court statistics in the United States has proceeded in a somewhat uneven fashion. For all practical purposes it may be said that there was very little interest in this field prior to World War I. Some statistics on federal court operations were collected by the United States Attorney General as far back as 1875, and a few states also collected court data at this time, but only on a very limited scale. The impetus for the development of criminal court statistics can be attributed to a series of independent surveys that were made during the Twenties. The best known of these were the Cleveland Survey, the Missouri Survey, the Reports of the New York Crime Commission, Sub-committee on Statistics, the Illinois Survey, and the Oregon Survey. All of these surveys dealt to some extent with judicial criminal statistics--some more than others. The Cleveland Survey was the first to present a statistical analysis of case mortality between arrest and final disposition, while the Oregon Survey concentrated on judicial criminal statistics and demonstrated one of the earliest examples of individual case reporting.

In the early Thirties, two events occurred which gave criminal court reporting the necessary stimulus to move ahead. The Wickersham Commission in their Report on Criminal Statistics in 1931 considered the problem of acquiring comprehensive criminal statistics on a nationwide basis. As a result, they recommended the establishment of a central national bureau of criminal statistics and the drafting of a Uniform Criminal Statistics Act which would establish a central bureau in each state. At about this same time, the Johns Hopkins Institute of Law sponsored a series of investigations that explored the reporting possibilities of judicial statistics on both the civil and criminal levels. As a result of this study, forms and procedures for court reporting were developed and standardized terms were promoted to define and classify judicial operations.

One other pioneer study that should be mentioned occurred in California in the middle Thirties. The purpose of this study was to evaluate the work of the courts in the administration of criminal justice, and further to devise and test a method for the reporting of court work on an individual defendant basis through a central collecting agency. The three most populous California counties reported criminal court statistics on the individual defendant system for one year, and these data were then coded and placed on machine records cards for tabulation and analysis. The data were published in 1936 in a report entitled, A System of Criminal Judicial Statistics for California. This report set the stage for the future development of court statistics in California.

As a result of the report of the Wickersham Commission and of the other studies that demonstrated the feasibility of criminal court reporting, the United States Bureau of Census in 1932 set up a system of court reporting from the individual states. At the inception, 16 states agreed to report criminal judicial statistics on a summary basis to the Census Bureau where they would tabulate, analyze, and publish the data. This project lasted from 1932 to 1945 and had a maximum of 30 states participating at any one time. Unfortunately, due to a multitude of difficulties, the data collection was discontinued with the last report being issued in 1946. The accomplishments of this collection though were enough to justify the energy expended on its behalf. The superiority of the individual card system was unequivocally recognized, and states such as Ohio and Minnesota that had been reporting on an individual defendant basis continued this system even after the reporting to the Bureau of the Census was discontinued. The states of Michigan and California began such a system shortly thereafter and certain other states continued their own collection of criminal judicial statistics on a summary basis.

History of Probation Statistics

In reviewing the literature on probation statistics in the United States, one soon concludes that, except in isolated instances, there has been very little development in this field. The Wickersham Commission in 1931 noted that statistics on adult probation were woefully inadequate due to ".... the absence of an accepted guide or standardized procedure for compiling probation material". The Commission went on to comment that ".... statistics concerning probation, like statistics concerning nearly every other aspect of work with offenders are distressingly inadequate in the United States". However, unlike the subsequent development of judicial criminal statistics, probation statistics did not move ahead. In the United States Attorney General's Survey of Release Procedures, Volume II, published in 1939 it was stated that "the two principal sources of information regarding the extent of probation are the courts vested with the power to grant probation and the organizations charged with the supervision of persons so released. However, machinery for collecting this information from either source in a uniform and comprehensive manner for the country as a whole has not been created".

There was some improvement--although slight--in probation statistics in the United States during the Forties. Some states began rudimentary reporting programs that culminated in published reports of one type or another. The Federal

Government strengthened its position by transferring probation statistics relating to United States courts to the newly created Administrative Office of the United States Courts rather than let it remain with the Bureau of Prisons. The state of Michigan entered into the collection of probation data as did Wisconsin and Massachusetts. Other states such as New York, Minnesota, New Jersey, Ohio, Washington, Louisiana, Texas, and Pennsylvania developed centralized agencies to collect and report data on some phase of criminal statistics. Unfortunately, it is difficult to summarize just what type of criminal statistics are being collected in the states just mentioned, as there is no uniformity in the type of information requested, the degree to which it is gathered, or the agency to whom it is reported. It would not be inaccurate to say, however, that the development of probation statistics in most states lags considerably behind the development of crime, court, and penal statistics.

#### Criminal Court Statistics in California

This then brings us up to a relatively current period of time and to the development of court and probation statistics in California. First though, a word about the formation of the California Bureau of Criminal Statistics. The history of the Bureau in its present form dates back to 1944 when the statistical operation that had been a part of the Bureau of Criminal Identification and Investigation was removed from that Bureau and placed in the Division of Administration as a Bureau of Statistics. From the beginning, the Bureau has operated as a central bureau of criminal statistics as described in the Uniform Criminal Statistics Act that was originally recommended by the Wickersham Commission, and later adopted by the Commissioners on Uniform State Laws. In 1955, the California legislature formally adopted the Uniform Criminal Statistics Act--California being the only state to do so. The primary units within the Bureau are crime and arrest statistics, court and probation statistics, and juvenile delinquency statistics. The following discussion will be concerned solely with the development of court and probation statistics.

In 1947, a pilot study was instituted in the San Francisco District Attorney's Office whereby they would supply the Bureau of Criminal Statistics with an individual card on each defendant prosecuted in the superior court of that county. A card was designed calling for such information as: the defendant's name and sex; the charge filed; the type of filing; the plea or pleas entered; the type of trial and verdict; and the sentence imposed. Except for name and sex of the defendant, no information was requested as to the characteristics of the defendant, his social history or background, or his prior criminal record. The reason for these omissions was that, for the most part, the data could not be obtained from the records of the prosecuting attorney, or at best, obtained only to a limited degree. The completed cards were submitted monthly to the Bureau of Criminal Statistics where the information was transferred to machine records cards.

The results of this study were first reported in mimeographed form in a pamphlet entitled, A Study of Criminal Cases Closed in San Francisco County, Calendar Years 1948-1949, which was released in August of 1950. In 1951, the idea of expanding this system, which had now reached a high degree of refinement, was presented to the district attorneys of the remaining 57 counties. The response was overwhelming--so much so that by July 1, 1952 all 58 counties were in the system and reporting on a monthly basis. The first annual report of the Bureau--Crime in California, 1952--covered crime and arrest statistics from police and sheriffs' departments and superior court prosecutions from district attorneys. A similar report has been published each year since, with the most recent publication being for the year 1959.

There is one other aspect of judicial reporting that should be mentioned in order to complete the picture of criminal court work on the felony level. What appears in the superior courts does not represent all of the defendants on whom felony charges have been filed. This is due to a certain amount of drop-out or reduction at the preliminary hearing level. The preliminary hearing is conducted by a magistrate of either a municipal or justice court and is essentially an examination to determine if a felony offense has, in fact, been committed and if there are reasonable grounds to believe that the defendant committed the offense. As a result of this hearing, the defendant may be held-to-answer for superior court prosecution or the felony complaint may be dismissed or reduced to a misdemeanor. Until recently, the mortality in felony complaints could only be approximated because the disposition of felony complaints not reaching superior court prosecution were not reported. In order to provide information at this level, a pilot project was inaugurated in 1958 with the district attorneys once again providing the source material. On this occasion, the district attorneys were requested to complete and forward a card to the Bureau of Criminal Statistics on each felony complaint dismissed or reduced in the lower courts. This card contained spaces for name, sex, county, offense charged, date of dismissal, and reason for dismissal. The cooperation received from the district attorneys on this level of reporting was very gratifying and by January 1, 1959 all 58 counties were participating.

#### Probation Statistics in California

Probation statistics in California were reported for a number of years by means of a simple summary report of caseload movement. This was completely unsatisfactory for detailed analysis and the data were often unreliable. In 1953, a project was begun whereby each county probation department (probation being administered locally in California) was asked to supply the Bureau of Criminal Statistics with a card on each superior court defendant referred for probation, and then, for those granted probation, a card on each change of status that the defendant

experienced while on probation. The initial probation card that was devised, and that is presently in use, requests more identifying information on the defendant than was possible to obtain by way of the district attorney card. This is because the face sheets of most probation reports contain these basic data and they can be located and transcribed with relative ease. In addition to the personal characteristics of name, sex, age, and race of the defendant, data are also requested on the method of conviction, the dates of referral and judgment, the type of recommendation, the judge's name, the offense of which convicted, and the judgment of the court. The cards are submitted at the point at which probation is either granted or denied, and the data are then transferred to machine records cards and held for tabulation. The change of status card, on the other hand, identifies the probationer by name and number and then reports the type of change of status that has occurred. Generally, three different types of action may be reported; (1) probation may be modified to some extent, (2) probation may be revoked, or (3) probation may expire or be terminated early. As these data arrive, the information is added to the defendant's master card, and in turn, punched onto the machine records card. This information is available in the Bureau's annual publications of Delinquency and Probation in California, 1954 - 1959.

#### Applications of the Statistical Data on Courts

In addition to the very practical value of court data for the purposes of accounting for the workload of an agency, and for explaining the processes involved in the administration of criminal justice, there is the added value of assessing the data in light of the goals that are set forth in the administration of criminal justice. Some of these goals have been stated as; certainty of apprehension and conviction, equality of justice, and swiftness of procedure. The studies that the Bureau has done with the information collected on courts may point the way for further research in these vital areas. For instance, in judicial criminal processes it has been noted that there is a tremendous variability among counties in the proportion of felony complaints dismissed. As reported in Crime in California, 1959, some district attorneys dismiss or reduce as many, or more, felony complaints in the lower courts as they file in the superior courts. Other district attorneys seldom agree to reductions or dismissals in the lower courts. The range of felony complaints dismissed during 1959 was from under 10 percent in some counties to over 50 percent in others. This would imply that similar defendants committing similar offenses are being handled differently depending on the counties where the offenses are committed. This is particularly noticeable in certain offense groups--forgery and checks is one such example. In one county, out of 120 felony complaints disposed of on felony insufficient funds check violations, 67 were reduced or dismissed and 53 went on to superior court prosecution. In another county, out of 29 insufficient funds complaints, only 2 were reduced

or dismissed and 27 were prosecuted in the superior court. District attorneys obviously use different standards in deciding on the merits of prosecution in criminal cases. They are entrusted with a considerable amount of discretion in deciding whether a felony complaint should be issued in the first place, and also whether the prosecution should be carried through to the superior court or dismissed or reduced at the preliminary hearing. These decisions may be entirely consistent within counties and yet inconsistent when two or more counties are compared.

The judicial decisions, of what type of sentence to impose on those convicted, also evidence considerable variability from county to county. As may be seen in Crime in California, 1959, the percent sentenced to prison varied from a high of 59 percent in one county to a low of 21 percent in another county. Probation judgments were as high as 57 percent of the total convicted in one county and as low as 15 percent of the total convicted in another county. Jail sentences were imposed in 38 percent of the convictions in one county and in only one percent of the convictions in another county.

The time involved in disposing of superior court cases is another area of variability among counties. In some of our larger counties during 1959, the median time from filing to disposition for superior court cases ranged from a low of 16 days to a high of 66 days. Some of the variability here can be attributed to the makeup of the counties--the urban, more metropolitan, centers having generally more crowded court calendars. However, even between the smaller, less urban counties there were differences in the disposition time of criminal cases that must be attributed to differences in procedure which allow one county to employ its resources more effectively than another.

#### Applications of the Statistical Data on Probation

Perhaps the most interesting of all developments in adult probation statistics is the recent study published in Delinquency and Probation in California, 1959, concerning a longitudinal or cohort evaluation of probation violations. This type of study requires a number of years of data collection, and only within the last year has the Bureau accumulated enough data to meet the requirements for such a study. The procedure involves selecting a representative group of defendants who have been granted probation and following them throughout their probation periods. In this instance, it was assumed that the defendants granted probation during a year's time would be representative of the general probation caseload. Therefore, the defendants granted probation from 56 out of 58 California counties during 1955 were selected from the files of the Bureau of Criminal Statistics, and a tabulation was made of all violations that these probationers experienced up through December 31, 1959. The results were grouped in such a way as to show the number of defendants with no violation record as of

December 31, 1959; the number of defendants with one or more violations as of that date but who were not revoked; and the number of defendants who were revoked. Of the total of 3,142 defendants in the 1955 cohort group, approximately 67 percent had no violations, 8 percent had one or more violations but were not revoked, and 25 percent were revoked. This latter percentage may be used as an indication of the probation failure rate in California, while the first percentage may be used as an indication of the probation success rate. What the middle group represents will depend upon the strictness of the definition of success or failure.

The validity of the above rates depends, to a large extent, upon the completeness of the reporting and the amount of uniformity in judicial decisions that exists among counties. There is no assurance that the defendants with no violations on record did not in fact have additional violations that were not reported. Also, the action that one judge takes as a result of a violation of probation may be entirely different from the action that another judge might take in a similar situation. The problem then is twofold; to be able to obtain an adequate and complete description of all violations that occur, and to have a standard for evaluating these violations uniformly from county to county. In respect to the first problem, the counties must be encouraged to report all violations of probation routinely. The Bureau is now getting reports on only the most serious violations, the ones that demand some sort of action, with only a few reports on the less serious violations, or those of purely a technical nature. The second problem is how to assess the violations that occur, not in terms of the action taken by the courts--which may be very inconsistent--but in terms of whether the violations represent a failure on probation. If all violations were reported, the Bureau could then set up a scale based on the seriousness of the violations and compare each violation against an agreed upon definition of failure. This definition of failure would be independent of the action taken by the courts. This would eliminate the variations from county to county in judicial and probation department policies and give a truer picture at that level.

### Summary

The administration of criminal justice in the United States is a matter of vital concern to everyone, but unfortunately, it is also a subject that we often know very little about. The only way to comprehend such a vast area is to collect statistical data that will accurately and reliably give some indication of the processes involved. The ultimate goal in this regard is to work within the framework of the Uniform Criminal Statistics Act with each state, through a central bureau or agency, being held responsible for the criminal statistics of that state. The material collected should cover law enforcement statistics, court statistics, probation statistics (both juvenile and adult), and penal statistics. These data should then be brought together and analyzed by the individual states in light of their own procedures and laws. When all these data are collected, tabulated, and analyzed, the next step would be to supply the data to some agency that is operating on a national level so that they, in turn, could combine the information from all states, analyze, and interpret the variations that will inevitably occur, and release it for national distribution. The agency doing this final collecting, tabulating and analyzing could be within the Federal Government if this were feasible, or a quasi-governmental, or non-governmental agency providing such an agency could take on a nationwide level of operation.

The outlook for the future in court and probation statistics depends to a large extent on how quickly we can implement the proposals contained in the Uniform Criminal Statistics Act. Court statistics nationwide will probably progress more rapidly than probation statistics because the data on court work are more readily obtainable and do not require so many individual interpretations. Many states, as noted previously, are now routinely collecting these data and publishing them in annual report form. Probation statistics, on the other hand, are in their infancy, but even here ideas for reporting on a nationwide level are being formulated, and the National Council on Crime and Delinquency is doing much to encourage the development of some centralized repository for data that may some day be collected by the individual states.