

GRASS ROOTS JUSTICE IN MIDDLE AMERICA:

THE "COUNTY COURTS" IN KANSAS

William R. Arnold
University of Kansas

The "lower" courts of our judicial system dispense justice to misdemeanor adults, handle practically all juvenile cases, decide whether or not felony charges should go to trial, and set bail. Because relatively little is known about how these courts operate, questionnaires were sent to the judges who preside over these courts in Kansas and to the felony court judges who receive cases from these lower courts. Most of the courts provide lawyers when they are requested to do so, but the variations from court to court suggests that the rights to a lawyer, reasonable bail, a speedy trial, and preliminary hearings are being ignored in some courts. The training of the judges, time spent on each case, types of dispositions, and the use of probation also vary extensively from court to court. High levels of legal training and the specialization that can come from court consolidation are not necessarily desirable, however. Measures of the judges' "orientations" indicate that the judges may more readily be classified as "active" or "passive" than classified as punitive or therapeutic.

I. Studying the Purposes and Place of "County Courts" in the Administration of Criminal Justice.

Everybody knows that we in America have a multi-tiered court system for the administration of justice. The great majority of legal and scholarly efforts have been devoted to the operation of the courts for felony offenders. The vast majority of criminal cases, however, are heard in the lower courts, courts called by many names but all handling non-felony offenders. Puttkammer's (1953) description of the administration of criminal justice devotes one paragraph to the "summary" trials of misdemeanants in these courts and the rest of the chapter on the magistrate (Ch. V.) to the remaining functions of these courts--preliminary examination of felons and setting and approving bail. Even the preliminary hearing function which Puttkammer considered relatively important (as do Sutherland and Cressey, 1974:419-420) is omitted in practice a third of the time. Nagel found that

Of the 1,168 state cases coming from counties that have provisions for preliminary hearings and on which information was available, the accused received no public hearing in 434. In 357 of these he waived his right to a preliminary hearing--

possibly without realizing its importance; the rest were recorded as "no preliminary hearing, reason unknown." (1970:34)

In fact, on the basis of a study of Connecticut courts, Casper concluded that "the exercise of the right to a probable-cause hearing . . . [is] fairly rare. . . ." (1972:52) Casper notes that despite the importance of such hearings as "discovery devices", they are often given up by, "Public defenders . . . [who] are burdened with heavy caseloads, have little time to spend with each client, and have access to police arrest reports and know the strength of the prosecution's case." (1972:53) Further, these defenders know that most of the cases will be bound over to felony court and that most of them will result in bargained guilty pleas.

I suggest, however, that handling misdemeanants is the most important function of these courts. One of the fuller, though imprecise, descriptions of the operation of courts handling misdemeanants has recently been provided by Prassel.

Frankly, it is misleading to refer to most of the hearings in our local courts as trials. There, at least 80 percent of the defendants quickly plead guilty, very few have counsel, only a small percentage escape punishment, while most are merely fined and released. . . . Courts disregard constitutional and statutory rights and simply process defendants en masse. Many local judges handle 30,000 or more cases a year! As a consequence, the typical trial lasts but a few moments, and in some instances, the officiating magistrate merely glances at the arrest report, "make sheet" (police record), and the defendant before passing sentence. . . . The problems of American courts are unfortunately most evident at the lower level, the only one frequently encountered by ordinary citizens. (1975:141)

A few studies provide the detailed justification for Prassel's generalizations (see, for example, Brickey and Miller, 1974).

Despite the fact that the juvenile court is usually constituted as a specialized operation of the lower courts, the juvenile court has received far more attention from scholars and others than have other lower court functions. The literature on the legal status and procedural proprieties of the juvenile courts has been voluminous since the early years of such courts (Addams, 1925) and continues to expand unabated (Davis, 1975; for one of the better selections of papers on the issues, see Lerman, ed., 1970, Part 3). We also have a number of studies and analyses of the actual operation of juvenile courts (Cicourel, 1965; Lemert, 1967; and Emerson, 1969, for example). No attempt will be made here to review this literature.

However, both the voluminous literature on the juvenile court and the skimpy literature on the misdemeanor court focus on the problems of the courts in urban areas and populous states. We know little about these courts in smaller cities and/or rural areas. Questions about how judges with low case loads handle cases, how juvenile courts operate without probation officers, how much time judges spend on various court functions where the only administrative staff is the clerk provided by statute, and a host of other questions are virtually unanswered. It is the purpose of this report to begin to fill this void in our knowledge.

There is, by law, in each county in Kansas a court of county-wide jurisdiction over adult misdemeanants and with limited civil jurisdiction. In a few of the more populous counties, this court is a magistrate's court with several divisions. In several counties one of the city courts has been designated the court of county-wide jurisdiction. In one county this court is designated the Court of Common Pleas. In the vast majority of the counties, however, there is designated a County Judge who has jurisdiction over this court. Also by law, each county has a juvenile court. In all but a few of the counties, the same court that handles adult misdemeanants is also the juvenile court. In the few remaining counties, the juvenile court is separate from the adult misdemeanor court for the county but is usually combined with some other court, such as the probate court or a city court other than the one handling adult misdemeanants. To simplify the language in the report, all these courts will be called "county courts", and it will be assumed that functioning as a juvenile court is one of the functions of these courts.

These courts, like those elsewhere as described above, serve as gateways to the felony courts by holding preliminary hearings to determine whether there is sufficient evidence to warrant a felony trial and by setting the conditions of detention prior to felony trials. Other, more minor functions (to receive "complaints" of criminal activity, issue warrants for arrest, and issue summonses and writs) are largely ways of facilitating the processing of cases. Most cases get on the dockets of these courts in response to police arrest reports or summonses (including traffic tickets) or by "information" from the prosecuting attorneys.

The author was asked to undertake a study of the processes at work in these courts, a study that was part of a larger study of the Kansas justice system. Because of the paucity of centralized records from these courts and their wide distribution over 105 counties, it seemed necessary to carry out the study by questionnaire. The instrument was designed around the functions of these courts as described in the relevant state laws in order to describe the variations among these courts and their presiding officers. The questionnaires were mailed to approximately 118 judges of these courts. During more than a year of persistent effort to get the judges to return the forms, responses usable for this report were received from 74 of the judges, and four others wrote responses which could not be coded. Portions of the data have been reported elsewhere (Arnold, 1971). At approximately the same time, others connected with the larger study sent questionnaires to the district (superior) court judges of the state asking about "Pre-sentencing Procedures." Because practically all the procedures which precede district court hearings are functions of the county courts, many of the district court judges simply referred us to the county courts. Others provided estimates of the data requested, but the high rate of non-responses to the questionnaire as a whole (26 responses from over 70 judges) and to particular questions make it apparent that many district judges did not have at their disposal the information called for. However, several important questions about county court functioning were asked on these questionnaires and were intentionally not duplicated on the instruments I sent out, so some material from the district judges' responses is used below, clearly identified as such.

II. The Judges of the County Courts.

Since the only qualifications for the position of county judge in the less populous counties of the state relate to residence and character, we would expect that our respondents would vary greatly in the backgrounds that qualify them for the judgeship. Three kinds of experience that could qualify one for the bench were considered--formal education, previous occupational experience, and training at institutes and conferences. For simplicity of presentation, education is simply divided between those judges who do and those who do not have a law degree (J.D.). The "types of work" respondents had done before coming presiding judges up to three of their answers beginning with the one closest to the judgeship were rated on the following scale:

1. Previous judgeship
2. Prosecutor
3. Private law practice
4. Law clerk, court clerk
5. Clerk involving legal documents such as registrar of deeds, county clerk, etc.
6. Law enforcement officer
7. Any other government office
8. Business, farming, ranching
9. Other essentially unrelated occupation

The training in institutes and conferences was divided at above or below 120 clock hours because that is about the amount of such training other criminal justice workers in the state have to have to be considered minimally qualified. Table I provides the relevant data. Most disturbing is the finding that 37 of the judges (over half of the respondents) have a mean rating on previous occupational experience of 4.0 or higher, no law degree, and less than 120 hours of inservice training. While we would not assume that lack of these qualifications necessarily indicates incompetence, the data do suggest a need for renewed efforts to provide, at least, extensive inservice training to judges whose occupational and academic experience provide little background for the judgeship.

It is also of interest that 45 of the 73 judges who gave their age on the questionnaires were 51 years of age or older. Only two were under 30, and seven were 71 years of age or older. Only twelve were women, but none of these were 71 or older.

III. The Operation of the County Court for Adults.

A. The preliminary hearing function--

As noted above, one of the key functions of the county court is to provide preliminary hearings for persons accused of felonies. When a person accused of a felony is apprehended by law enforcement officers, these officers will frequently make immediate contact with the county court judge for a decision about whether or not the accused should be released on bail (or bail bond) and, if so, the amount of the bail to be set. Whether the individual is held without bond or released on bond, an arraignment is very shortly held (the U.S. Supreme Court has said that 72 hours is too long to wait) at which the accused is formally informed of the charge against him, and a plea of guilty or not guilty is entered. At the arraignment a date for

a preliminary hearing is set unless the right to such a hearing is waived by the accused, and the amount of the original appearance bond may be adjusted. The purpose of the preliminary hearing is to determine whether or not the evidence against the accused is sufficient to warrant holding a district court hearing.

1. Time before preliminary hearing. Kansas law provides that the preliminary hearing shall be held within fifteen days unless a continuance is granted for another fifteen days. Actual time before the preliminary trial was asked for on the Survey of Pre-sentencing Procedures. Three district judges said that such trials were usually held within one day after apprehension; two said two days; one said between three days and a week; eight said between a week and fifteen days; and two courts said it was usually more than fifteen days before such hearings were held.

2. Setting of bond for district court appearance. Because the size of bail set has been the subject of considerable discussion, the Survey of Pre-sentencing Procedures requested information about the amounts of bonds set for district court appearances, an item of information the district judges were relatively likely to have. Briefly, bail is most often set between \$1000 and \$3000. In none of the respondents' courts had more than half of those appearing been held on bail of \$3000 or more. On the other hand, bail of less than \$1000 had assured the appearance of fewer than 30% of the offenders. Nevertheless, variations from court to court are striking. Ninety percent of those appearing in three courts had been on bail of between one and three thousand dollars, while in four courts fewer than 30% of those appearing had been on bail within this range. Practically all the judges report that the opinions of both defense and prosecuting attorneys are taken into account in setting the amount of bail.

The desirability and extent of use of "Personal Recognizance" bonds (usually called "release on recognizance") has been widely discussed and was the subject of proposed legislation in the 1975 Kansas legislature. The Survey of Pre-sentencing Procedures inquired about the use of this form of bond. Although the range of variation of use of personal recognizance bonds runs all the way from two courts in which over 90% of those appearing had been on such bonds to two courts in which no one on such bonds appeared, in the great majority of courts fewer than 30% of those appearing had been released on recognizance. Those released were about equally likely to have been bonded by professional bondsmen and other bonds such as property or cash.

3. The proportions of those accused of felonies who have preliminary hearings. Both the author's survey and the Survey of Pre-sentencing Procedures inquired about the proportions of those who fail to have preliminary hearings on their felony charges, either because such hearings are waived or for other reasons. The two studies generally agree, and only the results of the author's survey will be reported here. The county court judges were asked about their practices over the three months before they made their responses. While many judges could not answer this question precisely, we have no reason to believe their estimates are grossly inaccurate. Over half of those who gave some figure said that such hearings were held for 100% of the felony cases. Nearly half, however, indicated such hearings were held for half or fewer of the felony cases, and three said they never held such hearings. Surely such variations among courts on such a vital matter must be a function of pressures from judges and/or attorneys as well as a result of variations in types of cases and circumstances.

4. Time spent in each preliminary hearing. Although the length of time spent in a preliminary hearing is not necessarily a measure of the fairness or completeness of such hearings, the range of variation spent per case in this function is of some consequence for justice. The Survey of Pre-sentencing Procedures provides a few figures. One judge indicated such hearings were usually shorter than one hour; three said one to two hours; two said these hearings usually took between two hours and a half day; five said they took about a half day; and one indicated that they usually took over a half day. Most of the district judges, of course, could not answer this question. The responses we do have, however, suggest most such hearings are not as perfunctory as the data from previous studies of urban courts suggest.

5. Time between preliminary hearing and district court trial. From the point of view of the accused, there are two key features about this time-- its length and whether or not he is incarcerated during this time. The Survey of Pre-sentencing Procedures gives us some information about both features. No judges reported that this time is usually less than a week, but five did report it was usually between a week and a month. Ten reported it was between a month and 90 days; six said it was usually between 90 days and five months. One judge gave a more complex answer indicating that the time could be long or short, depending on the accused and his attorney. Two court administrators have indicated to the author that practically all the excessive delay in bringing cases to trial is at the request of defense attorneys. The capacity of the administrator of the district courts in Kansas (in effect, the Clerk of the Supreme Court is such an administrator) to move judges from one district to another to reduce backlogs of cases keeps delays caused by the courts at a minimum.

B. Disposition of adult misdemeanor offenses--

The extensive variation from court to court extends, as we would expect, to the patterns of disposition of cases. A division was made in the analysis between counties that had a city within them over 20,000 in population and counties that did not on the grounds that the nature of the offenses coming to court in more urbanized counties might be great enough to account for some variation in disposition patterns. Only a few generalizations may be stated here. Acquittals were relatively more common in less populous counties. Less urbanized counties are more likely than the urbanized ones to use "fine only" as the disposition. Correspondingly, the more urbanized counties have meted out a wider range of dispositions such as probation. In addition, the less urbanized counties are more likely to witness sentences of "fine and jail" than are the more urbanized counties. It may be, of course, that these patterns reflect either a larger proportion of traffic offenses out of the total handled in small cities or a difference in the availability of services such as probation supervision. Only a few of the counties in the state provide probation supervision for misdemeanants.

C. Judges' orientations--

I attempted to develop sets of questions that would measure the "orientations" or general views of judges about their roles as judges. The questions provided brief descriptions of case situations or problems people could conceivably bring to the judges and asked the likelihood of the judges' taking various actions. The scores that resulted are rough, "raw" scores which are means of judges' ratings on Likert-type items of their probability of taking a given kind of action. Five or six options for action were suggested for each case, and the judges were asked to rate the likelihood of their taking

each action in each case. My classification of a given action as "therapeutic," as "punitive," or as bringing "social forces" in the community to bear on the case is, at this point, based entirely on informed intuition. Each judge, then, has a mean rating on each of the three types of items, therapeutic, punitive, and social forces. The median value of these mean ratings is somewhat higher for therapeutic items (3.5) than it is for the punitive items (2.6). The median of the means for the social forces items falls between the other two at 3.1. These comparisons suggest that our country judiciary may be somewhat oriented toward rehabilitation.

It was surprising when I found that the scores on somewhat comparable questions asked the probation and parole officers were positively correlated, i.e., high scores on the therapeutic questions were associated with high scores on the punitive and social forces questions. This was surprising because we tend to think of one who would take therapeutic action as one who would not take punitive action. I decided that possibly these officers might most appropriately be classified as "actives" and "passives." Accordingly, I undertook to correlate the scores the county judges made on the three measures. For the judges also, high scores on one "scale" tend to be associated with high scores on the other "scales." Because of limitations of time, I could not prepare the data to compute the exact degree of association among the three sets of scores, but the tendency is clear from simple classifications of the scores into quartiles and cross-tabulation of these quartile rankings. Eight of the judges fell into the lowest quartile on all three measures, while four of them fell into the highest quartile on all three measures. Apparently, judges, too, may be classified as active, i.e., inclined to take action of some kind in a case, and as passive, i.e., not inclined to act on cases. It should be pointed out that "case" here refers to problems brought to the judge, some of which were charged persons and some of which were not.

IV. The Operation of the Juvenile Courts.

The philosophy of the juvenile court in general and of the Kansas juvenile code in particular provides that decisions shall be made in the interest of the child. In the past this has meant that hearings were to be informal and follow relatively few of the rules of procedure and evidence characteristic of the adult court. The fact has long been obvious, of course, that the courts had the capacity to dispense justice which had the appearance, at least, of being criminal justice. The Kansas law provided for the presence in the court of a "guardian ad litem" long before the Supreme Court required the juvenile court to provide for a defense attorney, if desired, in cases which could result in incarceration. Current Supreme Court rulings, however, made it important to ask the judges about the proportions of their court hearings at which attorneys for the prosecution and defense, probation officers (who often take on some elements of the prosecutor role if their social investigation of the case led to a conclusion that the child's status should be changed), and welfare department workers who may have investigated the cases are present in the court. The analysis presented in Table II is only for cases in which the juvenile is being charged as a "delinquent" and is subject to incarceration in one of the state industrial schools (Youth Centers). In these cases, a defense attorney "must" be provided if the juvenile or his parents want one. Obviously, a defense attorney can serve as the guardian ad litem, and welfare department workers who have made social investigations are rare in courts which have probation officers to make these investigations. The data in the table are limited to the 57 courts for which

information about juvenile hearings was provided on the questionnaires. The remaining courts failed to provide information about the presence of some of the types of officials in the hearings. We would not be surprised, for example, if a judge who did not have welfare workers appear in his court but did have a probation officer would simply leave blank the question about welfare workers. It is clear that in the vast majority of cases in the vast majority of courts an individual who has investigated the case, a prosecuting attorney, and a defense attorney are all present. What is surprising, and disturbing, is that there are three courts in which a defense attorney is almost never present and an additional six courts in which one is present a relatively small proportion of the time. It seems unreasonable that the juveniles in these courts really do not want defense attorneys in view of the fact practically all the youths in other courts want them. The absence of a defense attorney at hearings in these courts becomes particularly alarming when prosecuting attorneys are present, as is apparently the situation in some cases.

Although proper procedure is vital in the courts, the pattern of decisions made is what matters most to most persons adjudicated delinquent or criminal. The variation in these patterns from one juvenile court to another is vast, far beyond what seems likely or reasonable. The judges were asked to indicate what proportion of their last twenty or so cases had been dealt with in each of the ways listed in Table III. Some, of course, simply marked one or more of the alternatives as the ones they used, and such marks were presumed to indicate that a preponderance of cases were dealt with in the ways marked. It may be, of course, that the last 20 or so cases are not representative of all cases heard in a given court, but the differences from the normal in one court may be assumed to be balanced by contrasting differences from the normal in other courts.

What happens to a juvenile turned over to a juvenile court in Kansas is obviously influenced by which juvenile court he comes before. In some counties, a juvenile may expect informal probation, but in many counties juveniles are rarely or never put on any form of probation. The availability of probation services in a given county will, of course, be important in whether or not a juvenile can be put on probation. However, few counties use probation rather extensively even though they have no one to supervise the probationers. It is clear that in many counties juveniles may expect little more than a conference with the judge; while in other counties they may expect a formal hearing. If we are to reduce these variations in patterns of disposition of presumably similar patterns of cases and yet maintain the individualization of juvenile court decisions, we must improve training of the judiciary in the desirability of particular dispositions for specified types of cases. In general, what appears most disturbing about the data in Table III is that numerous judges handle virtually all their cases in the same way regardless of the varying needs of the juveniles.

It does appear, however, that there is considerable agreement among the judges that juveniles should rarely be acquitted of the charges against them and that relatively few juveniles which come before the juvenile courts need to go to the industrial schools. Because it is generally understood in the state that these schools are somewhat selective of individuals sent to them (those disrupting the routines seriously or repeatedly running away are sent back to the courts), I thought it desirable to ask about the number of juveniles the judges had had before them who they felt should be sent to a training school but who could not be. The answers to this question have lost

some of their poignancy, however, for some new facilities have been provided for 16 and 17 year old youths since most of the questionnaires were returned, and the law governing waivers to adult court has been revised to make such waivers more frequent. At the time the judges responded, the only courses of action generally open to the judges for seriously delinquent youths 16 or 17 years old were to put them on formal probation in the community or hold proceedings to certify them as adults for criminal court purposes. The latter procedure rarely solved the problem, for the offenses for which the youths were then charged in criminal court were, almost necessarily, their first to come before the adult court, so such persons were usually put on probation. When judges were asked about numbers they would liked to have had incarcerated who could not be, 18 judges gave a specific number and 11 more said that they had had some such cases in the last year. The numbers specified varied from one to 30, and two judges said that they felt that 75% and 90%, respectively, of the individuals they felt should be sent to a training school could not be sent. The total number of such youths before the judges who provided a figure was 93. As implied just above, this situation has probably been somewhat alleviated by the opening of two facilities for 16 and 17 year old youths, but the number of spaces in these facilities does not even come close to making available residential treatment for the youths judges feel they would like to have incarcerated. It may well be, of course, that this lack of facilities prevents the incarceration of large numbers of youths who are better left in the community, but many judges see the problem differently.

Although the questionnaires did not deal with detention practices, it is important to note that many counties are faced with a dilemma of providing facilities separate from adult offenders in jails and paying rather high rates to neighboring counties for the detention of juveniles in facilities designed for that purpose.

The needs which seem to be highlighted here include a need for more training of many of our judges, more adequate individualization of disposition, added supervisory personnel for juveniles on probation (primarily so that probation rather than incarceration will be used and not because supervision, as such, seems to have much effect), reduction of the variation in disposition practices from court to court, and provision of adequate detention facilities.

V. Conclusion and Recommendations.

It is obvious throughout this paper that the author set out not merely to describe the operation of the lower courts but also to provide some policy directions consistent with our legal philosophy. The overall picture that emerges here of the operation of our county and juvenile courts is one of extreme variability. It appears, indeed, that the ranges of variations are so great that justice is scarcely being meted out in an equal fashion. The principal alternative to this variation, however, is one which Kansas is presently undertaking, namely, a unification process in which larger numbers of cases are handled in fewer courts presided over by legally trained judges. This type of change may not be altogether desirable if it results in the type of lower court operation noted at the outset of this paper to be characteristic of urban centers. I found one judge's comments most persuasive;

My court must be different than some. I have time for the people when they come before me. In my opinion they are part of my judicial duties and that is why I am here. The idea of consolidating counties, offices, etc., will do away with the courts having time for people, and could be a large back step for mental health. A judge must take time for people.

It is worthy to note that this humane, treatment-oriented comment came from a female judge whose formal education did not go beyond high school but whose in-service training exceeded 120 hours. A comment with somewhat the same thrust came from an elderly, legally-trained male judge:

My 34 years of experience in this court has convinced me that every time the legislature attempts to overhaul a code, the only beneficiaries are the attorneys who must be involved in any action, whether the patient, or one charged with a felony, desires one or not, and in many instances the poor tax payer pays the bill. I suppose I am getting old and out of step with society, but I still believe society has a right to be protected, and I have never, to my knowledge, taken advantage of a defendant charged in this court, and he was always informed of his rights. (only the spelling corrected)

What, in general, seems most desirable to reduce the tremendous diversity of dispositions of presumably comparable ranges of cases is added in-service training coupled with a provision of comparable alternatives in all counties. In particular, it appears desirable to increase provisions for probation services to less populous counties so that probation is a viable alternative in these counties.

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Table I
Qualifying Characteristics of County Judges

Mean Ratings of Previous Occupations	Have law degree		Do not have law degree	
	Have 120 or more hours in-service training	Have fewer than 120 hours of in-service training	Have 120 or more hours in-service training	Have fewer than 120 hours of in-service training
1-2.9	1	3	1	1
3-3.9	9	2	1	0
4-5.9	0	0	2	3
6-7.9	1	0	8	8
8.0 or more	0	1	9	16

Number failing to answer one or more relevant questions: 10

Table II
Presence of Officials in Juvenile Court Hearings
(No. of Courts)

Official	90% or more or "usually"	70-89%	50-69%	30-49%	10-29%	under 10%	never	when requested or re- quired	Total
<u>Guardian ad litem</u>	43	1	2	1	0	2	2	0	51
County attorney	42	2	4	0	2	2	1	0	53
Probation officer	23	0	4	0	3	1	13	0	44
Welfare worker	13	1	5	0	12	2	8	3	44
Defense attorney	39	1	2	0	3	3	3	1	52

Table III

Dispositions of Juvenile Court Cases

(figures are numbers of courts in which a given proportion of cases is handled as indicated)

Dispositions	Percents of Cases Disposed of in Different Ways						
	None	1-19%	20-49%	50-69%	70-99%	Most	100%
Informal probation ¹	23	7	11	11	2	3	0
Just talk to child and/or parents	16	15	18	5	1	2	1
Acquittal	37	19	0	1	0	0	0
Continuance of case	36	13	6	1	0	1	0
Formal probation without supervision	35	10	6	4	2	0	0
Formal probation with professional supervision	32	4	9	6	7	1	2
Formal probation with volunteer supervision	35	13	6	2	0	0	1
Committed to industrial school	36	20	1	0	0	0	0

¹The standard meaning of "informal probation" is supervision by a probation officer, voluntarily agreed to by the probationer without any court hearing having been held. Such supervision is impossible when there is no probation officer, and the term may not have been understood by all the judges. The meaning of the term becomes particularly unclear in counties in which all cases are referred directly to the judge whether or not any "formal" hearing before him takes place.

²Entries in this column are numbers of marks presumed to indicate that a preponderance of cases are dealt with in a given way.