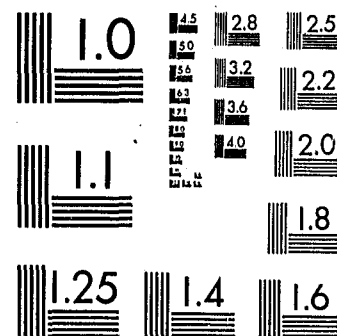


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Federal Probation

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MARCH 1981

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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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VOLUME XXXXV

MARCH 1981

NUMBER 1

This Issue in Brief

Disclosure of Presentence Reports in the United States District Courts.—This article is a summary by Philip L. Dubois of a report prepared by Stephen A. Fennell and William N. Hall under contract with the Federal Judicial Center. The author states that, on the one hand, it does appear that a large proportion of Federal districts have achieved disclosure of presentence report in a large proportion of their criminal cases. On the other hand, he adds, although the high rate of disclosure is a positive step, many districts utilize practices that limit the effectiveness of such disclosure.

Prosecutive Trends and Their Impact on the Presentence Report.—With Federal prosecutors launching aggressive prosecutions against white-collar criminals, narcotics traffickers, corrupt public servants, and organized crime racketeers, probation officers find they need significant enhancement of their investigation and reporting skills, assert Harry Joe Jaffe and Calvin Cunningham, U.S. probation officers in Memphis, Tenn. For these offenders, a presentence writer can prepare a useful presentencing document by concentrating chiefly upon three significant areas: the official version section, the financial section, and the evaluative summary.

The Right To Vote as Applied to Ex-Felons.—While rights are intimately connected to duties, laws disenfranchising ex-felons show that correlations between the two are often drawn imprecisely, writes Professor John R. Vile. While voting is a fundamental right, the Supreme Court has refused to void felony disenfranchising legislation, he reports. The Court's action is normatively questionable, he maintains, especially when applied to those whose incarceration has ended.

Action Methods for the Criminal Justice System.—Dale Richard Buchanan, chief of the Psychodrama Section at Saint Elizabeths Hospital in Washington, D.C., tells us that while role train-

ing, role playing, and psychodrama have been extensively used in the criminal justice system, there has been a lack of coordination among these terms and in the ways in which they were used. Action methods will probably continue to gain greater use within the criminal justice field, he asserts, because of their direct applicability to the jobs that are needed to be performed by criminal justice personnel.

Administrators' Perception of the Impact of Probation and Parole Employee Unionization.—This article by Professor Charles L. Johnson and Barry D. Smith presents information from a recent survey on the incidence of parole/probation unionization

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and administrators' perceptions of the impact of unionization on the quality, cost, and difficulty of administering services. Some of the critical issues emanating from the increased parole/probation unionization are delineated and discussed as they are reflected in the literature and as a result of the survey.

Highlights, Problems, and Accomplishments of Corrections in the Asian and Pacific Region.—The Australian Institute of Criminology recently organized the First Conference of Correctional Administrators for Asia and the Pacific, which was well attended and prepared the ground for joint action. Already this has resulted in the collection of data on imprisonment, some of which are provided in this article by W. Clifford, director of the Institute. In this very broad survey, some of the problems of corrections in the region—and some of the approaches which are different from those in the West—are highlighted.

The Demise of Wisconsin's Contract Parole Program.—This article discusses the elimination of an innovative method of paroling criminal offenders in Wisconsin. The State abolished its creative Mutual Agreement Program because budget analysts deemed the program to be an ineffective method of paroling offenders when compared to the traditional method of parole decision-making. Although this program has been eliminated, Wisconsin Parole Board Member Oscar D. Shade says it is conceivable that contract parole is workable and could prove to be a most effective means of managing an offender's parolability.

Juvenile Detention Administration: Managing a Political Time Bomb.—Administering a juvenile detention center is one of the most difficult and frustrating jobs in the juvenile justice field,

asserts Youth Services Consultant Robert C. Kihm. Although it is clearly stipulated in idealistic terms how children ought to be cared for while in state custody, the detention administrator must deal with the reality of providing care with very limited resources and little control over who is admitted and discharged from the facility, he states. This article examines how these contradictions proved the demise of four detention administrators' careers, and what lessons can be gained by current administrators facing similar problems.

Parent Orientation Program.—Juveniles paroled from a correctional institution are faced with readjustment problems. Community resources are limited and families poorly equipped to offer assistance. To increase the effectiveness of families as resource people, the author, Serge W. Gremmo, has developed the Parent Orientation Program (POP) which orients families toward potential problems in the parole adjustment of their children, acquaints them with the mechanics of parole, disseminates information to assist juveniles during reintegration, and lends support during a difficult period.

Crisis Intervention in a Community-Based Correctional Setting.—Despite their widespread use in other practice settings, crisis-intervention theory and techniques have been woefully underutilized in community-based correctional agencies. This article by New York City Probation Officer Margaret R. Savarese is an attempt to help remedy that situation by presenting an overview of crisis theory and techniques and then illustrating their application at a particular crisis point in the criminal justice system—the point of sentencing—via two actual case situations.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.

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Administrators' Perception of the Impact of Probation and Parole Employee Unionization

BY CHARLES L. JOHNSON, PH. D., AND BARRY D. SMITH*

WITHIN THE past century the labor force in the United States has substantially changed with respect to the proportion of employees located in the public labor force vis-a-vis the private labor force. This change has come about without considerable notice on the part of the general public, however, it has had impact on both the social and economic components of our society. The major change has been the shift from a predominantly manufacturing economy to one in which the majority of employees are engaged in service provisions.¹ Corresponding with the movement toward service provisions, there has been a concomitant increase in the number of employees supported by tax revenues at the local, state, and Federal level. With this dramatic change in the labor force has come an increasing tendency for public employees to join unions.

The purpose of this article will be to review public employee unionization and criminal justice unionization generally, and probation and parole unionization specifically. The authors will review results from a nationwide survey of probation and parole administrators completed in June 1980. This survey determined the incidence of unionization in probation and/or parole agencies and the perception of administrators regarding the impact of unionization on the areas of program cost, program quality, and program administration.

Public Employee Unionization

It is part due to the unprecedented increase in the public work force that the future of employee labor unions is in the public, not private sector. Currently in the private sector less than 25 percent of the total labor force is organized by employee unions. In the public sector, approximately 50 percent of the employees are now members of employee unions and the growth trend shows little sign of tapering off.²

During the decade of the 1960's, the public generally began to accept militancy through protest as a basic right of all citizens and this acceptance played a major role in paving the way for public employee unionization. In addition, public employees began to realize that through organized and consolidated employee groups, pressure could be brought to bear on public officials. Finally, as the public bureaucracy grew, one result was the diminished impact of the individual employee on such areas as salaries, program policy, and similar concerns. Given the decreasing individual impact, the public employee sought to increase input via collective action with fellow employees.

In addition to the decreased impact of the individual, several other conditions enhanced the likelihood of unionization occurring. The first revolves around parity. When public sector salaries and benefits fall behind private industry, conditions are ripe for unionization. A second, and critical factor, is public acceptance of labor unionization in the public sector. The final condition is the push by unions to aggressively court public sector employees.

Public employers are thus in a situation of coping with a work force which demands to be heard. In the past, public employers were ill prepared to deal with the public unionization movement. With the renewed fiscal austerity in government and some radical strikes by service employees, however, the public has given its support to the public employer in many situations. In addition, public employers and managers are developing contingency plans specifically for dealing with strikes and other bargaining techniques.

Criminal Justice Employee Unionism

Just as the general public employment has in-

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¹Between 1947 and 1967 the number of public employees increased by over 110 percent while the growth rate for the same period in the private sector equaled 42 percent (Kassalow, Everett M., "Trade Unionism Goes Public," *The Public Interest*, No. 14, Winter 1969). Lewin (Lewin, David and Keith, John H., "Managerial Responses to Perceived Labor Shortages: The Case of the Police," *Criminology*, Vol. 4, No. 1, May 1976) reports that between 1960-1976, state and local government employment doubled.

²Bowers, Mollie H. and Cohen, David M., "Recent Developments in Public Sector Labor Relations," *Municipal Year Book*, 1979, Washington, D.C.: International City Management Association, 1979.

creased, so too has employment in the criminal justice sector. The recently published National Manpower Survey of the Criminal Justice System³ indicates that employment in state and local criminal justice agencies is projected to increase from 916,000 in 1974 to 1,307,000 by 1985, a 43 percent increase in full-time equivalents. Police protection during this time period is projected to increase from 539,000 to 718,000, judicial from 118,000 to 182,000, prosecution and legal services from 45,000 to 79,000 and the area we are most concerned with, corrections, from 203,000 to 324,000, the latter reflecting a 60 percent increase in full-time equivalents.

While no specific data are available for probation and parole alone, we do know that the number of probation and parole officers in state and local agencies has more than doubled, from 16,877 in 1967 to 35,072 in 1976.⁴ With respect to future needs, the National Manpower Survey of administrative heads of probation and parole agencies reported a greater need for additional manpower than did the heads of either adult or juvenile institutions.⁵

The point to be made is that along with general public sector employment and other criminal justice employment, the number of probation and parole employees is also increasing dramatically. Concurrent with the increases in criminal justice employment has come increasing unionization of criminal justice employees.

Police unionism, as an example, represents a recent phenomenon relative to the overall development of labor relations. Although recorded events of police labor disputes date back to Ithaca, New York, in 1889, Cincinnati, Ohio, in 1918, and the well known Boston Police Strike of 1919,⁶ it was not until the 1960's that police fought hard to organize, to win legal rights, and to establish a viable bargaining position. Today the police are well organized as evidenced by the fact that in

1978, over 60 percent of the police in the United States were covered by some form of collective bargaining contract, memorandum of understanding or local ordinance.⁷ This percentage should not be surprising since 26 states and Washington, D.C., had granted police bargaining rights by 1978.⁸

The central police union issues of the 1960's and early 1970's revolved around the right of the police to organize and to bargain collectively. Due to the vital public safety nature of the law enforcement role, the police have traditionally been treated as a special category in the field of public sector labor relations. The police were among the last to be given the right to form unions in the public sector due to the fear that union activity would lead to strike activity which could result in significant threat to the public safety and welfare. Court decisions, legislative statutes, and executive actions have since cleared the way for the organization of police unions. As such, the police are now considered to be a powerful, legitimate force in public sector labor relations. Consequently, the issues of law enforcement labor relations now concern the impact of police unions and the scope of their involvement.

Unionization of institutional correctional employees, particularly correctional officers, has also gained impetus in the 1970's. There are currently 27 state correctional systems under union contract and many more with nonbargaining employee organizations which are forerunners of unions.⁹ One problem facing corrections is the conflict between treatment and custody. Although in agencies conflict occurs between administration and employees, professional and nonprofessional staff, younger and older workers, and, increasingly, between white male workers and racial-minority and female workers, the conflict between treatment and custody is unique to corrections.¹⁰ An additional factor adding to the uniqueness of correctional labor relations is the continuous threat of violence. Silberman states that "clearly, prison life brings out the worst, the most brutal, violent, and sadistic tendencies in human behavior."¹¹ Further, "few people, outside the prison world itself, have any idea how badly outnumbered the guards really are."¹² Another factor contributing to the uniqueness of correctional labor management is the autonomy and authority of the correctional administrator. Traditionally, the warden was the sole decisionmaker and very rarely allowed any participation by the guards.¹³ Prison administrators still believe they need this traditional authority to effectively manage.¹⁴

³The National Manpower Survey of the Criminal Justice System, United States Department of Justice, Law Enforcement Assistance Administration, Washington, D.C., 1978.

⁴Ibid.

⁵Ibid.

⁶Maddox, Charles W., *Collective Bargaining in Law Enforcement*. Springfield, Ill., Charles C. Thomas, Publisher, 1978.

⁷Hewitt, William H., Sr., "Current Issues in Police Collective Bargaining," *The Future of Policing*, Edited by Alvin W. Cohen, Beverly Hills and London: Sage Publications, 1978.

⁸Rubin, Richard S., "Labor Relations for Police and Fire: An Overview," *Public Personnel Management*, Volume 7, No. 6 (September-October 1978).

⁹Johnson, Charles L.; Copus, Gary D., *A Comparative Analysis of the Initial Security Officer Position in State Penal Institutions*, Academy of Criminal Justice Sciences, Annual Meeting, Oklahoma City, 1980.

¹⁰Wynne, John M. Jr., *Prison Employee Unionism: The Impact on Correctional Administration and Programs*, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., 1978.

¹¹Silberman, Charles E., *Criminal Violence*, Criminal Justice, Random House: New York, p. 392, 1978.

¹²Ibid., p. 393.

¹³Jacobs, James B., *Stateville*, The University of Chicago Press, Chicago, 1977.

¹⁴Wynne, John M. Jr., *Prison Employee Unionism: The Impact on Correctional Administration and Programs*, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., 1978.

Through unionization, however, the guards are demanding more and more participation in decisionmaking.¹⁵

A final area of uniqueness is the political power possessed by the organizations that represent guards. Employees in corrections account for less than 2.5 percent of state employees, but because of recent riots, and increased political recognition, corrections has become a much discussed political issue.¹⁶

Probation and Parole

Probation and parole, as components of corrections, are influenced and guided by many of the same unique characteristics mentioned above. What then is the probability of probation and parole officers organizing, in light of the issues of parity, public acceptance, and aggressive recruitment by public sector unions?

In most states, the educational requirement for entry as a probation and/or parole officer is a bachelor's degree.¹⁷ For the most part, however, there are no specific type of bachelor's degree requirements. Given this, those individuals interested in employment in probation and parole would also be members of a common labor pool for other public and private occupations requiring only a bachelor's degree. We also know that beginning in the 1960's parity was lost between public and private sector employment, with public sector employment falling behind in wage and salary concerns. While specific data are not available to clarify the degree of parity between public and private sector employment, particularly when type of degree and degree requirements for specific jobs are considered, it is likely that private industry provides greater remuneration for individuals with these educational characteristics than does the public sector.

The issue of public acceptance of the right for public employees to organize and collectively bargain has become a foregone conclusion, given that over 50 percent of public employees are already unionized and considering that both the judicial and legislative branches in many states

have respectively upheld and granted this right. Also, as evidenced by the size and growth of the American Federation of State, County, and Municipal Employees, there are obviously union organizations which are receptive to including public sector employees within their ranks and, in fact, aggressively court such employees.

Methodology

It would appear then that probation and parole officers, as an occupational group, would be receptive to unionization. In order to determine the current status of probation and parole unionization the authors conducted a survey of all state probation and parole agencies or, where such functions were locally administered, the appropriate policy agency for probation and/or parole was contacted to determine the status of unionization for this occupational group.

Using the American Correctional Association Directory,¹⁸ the names and addresses of each of the appropriate agencies was identified with a resultant population size of 60. The N-size occurred due to the division of probation from parole in some states, thereby resulting in several states being contacted separately for information on probation and parole. In addition to determining the incidence of unionization, the administrators were asked if their employees were represented by a labor union, and, if not, were they represented by a nonbargaining employee organization. The administrators were also requested to give their opinion of the impact of unionization on the cost of probation and/or parole services, the quality of probation and/or parole services and finally, whether or not unionization increased the difficulty of administering probation and/or parole services.

Results

All of the 60 agencies to whom questionnaires were sent responded. Ten of the agencies were probation, 11 were parole, and 39 were both probation and parole. (Table 1)

TABLE 1. Frequency of organizational level

Organizational Level	N	%
Probation	10	16.7
Parole	11	18.3
Probation/Parole	39	65.0

Of the 60 agencies 19, or 31.7 percent, were unionized and 41, or 68.3 percent, were nonunion. Of the 41 not unionized, 10 were represented by employee organizations and 31 were not. (Table 2)

TABLE 2. Frequency of nonunion vs. union and employee vs. nonemployee organizations

	N	%
Labor Organizations		
Union	19	31.7
Nonunion	41	68.3
Employee Organizations		
Organized	10	24.4
Nonorganized	31	75.6

On the question concerning cost impact, the respondents were asked to indicate whether in their opinion unionization had no impact on cost or increased cost by a certain percentage range. Nineteen, or 31.7 percent, indicated unionization would have no impact on cost. Thirty-one, or 61.8 percent, indicated cost would increase by some percentage. Ten respondents, or 16.7 percent, did not reply to this question. (Table 3)

TABLE 3. Agency administrator opinion of cost impact from unionization

	N	%
No Impact	19	31.7
Increase 1-5%	7	11.7
Increase 6-10%	13	21.7
Increase 11-15%	4	6.7
Increase over 16%	7	11.7
No response	10	16.7

On the question concerning quality of services the respondents were asked to indicate whether in their opinion unionization had no impact on quality, a positive impact on quality, or a negative impact on quality. Twenty-six, or 43.3 percent, indicated unionization would have no impact, 11, or 18.3 percent, indicated it would have a positive impact, and 17, or 28.3 percent, felt unionization would have a negative impact on the quality of probation and/or parole service. Six administrators did not respond to this question. (Table 4)

TABLE 4. Agency administrator opinion of quality impact from unionization

	N	%
No Impact	26	43.3
Positive Impact	11	18.3
Negative Impact	17	28.3
No Response	6	10.0

The final question requested the administrator's opinion of the impact unionization would have on the difficulty of administering probation and/or parole services. Fifty-six of the 60 administrators responded to this question, with 24, or 40 percent,

indicating it would have no impact; 29, or 48.3 percent, indicating it would increase the difficulty of administration, and 3, or 5 percent, stating that in their opinion unionization or probation and/or parole services would decrease the difficulty of administering these programs. (Table 5)

TABLE 5. Agency administrator opinion of administrative difficulty impact from unionization

	N	%
No Impact	24	40.0
Increase Difficulty	29	48.3
Decrease Difficulty	3	5.0
No Response	4	6.7

In addition to calculating the frequency of each response category, the possibility exists that the responses of the administrators might have been influenced by whether or not their agency was unionized. Cross-tabulations were computed to determine if this phenomenon was occurring. The result yielded no significant chi-squares with one exception. When the variable "employee organization representative" was crossed with opinion of "cost increase" there was significance at .024. This would mean that those agencies represented by employee organizations felt that the cost would increase more often than did those agencies already unionized and those not unionized with no employee organizations. One possible explanation for these results has to do with perception as opposed to knowledge. It may be that agencies with employee organizations anticipate unionization as the next step by their employees and also anticipate the worst possible case with respect to cost as a result of this possible unionization. On the other hand, those agencies already unionized are aware of the consequences of unionization and generally feel that it has had no impact on cost. Those agencies which have neither employee organizations nor are unionized may not feel the pressure of unionization and, therefore, have not really considered the outcome.

When viewed in the context of the only other previous study of the incidence of unionization available to the authors, it appears that unionization among probation and parole officers is on the upward swing.

In a 1972 study of corrections by Morton and Beadles, only three probation and/or parole agencies reported being under contract (Massachusetts, Hawaii, Pennsylvania).¹⁹ In corrections generally, it was reported that the majority of correctional agencies had been under contract or agreement for 5 years or less. Therefore, in a period of 7 years, the number of unionized probation and/or parole

¹⁵Jacobs, James G.; Crotty, N.M., *Guard Unions and the Future of Prisons*, Institute of Public Employment Monograph, Cornell University, 1978.

¹⁶Wynn, John M., Jr., *Prison Employee Unions: The Impact on Correctional Administration and Programs*, National Institute of Law Enforcement and Criminal Justice, Washington, D.C., 1978.

¹⁷By 1976 only three states had established an entry educational requirement of less than a bachelor's degree, *National Manpower Survey of the Criminal Justice System*, United States Department of Justice, Law Enforcement Assistance Administration, Washington, D.C., 1978.

¹⁸American Correctional Association, *Directory of Juvenile and Adult Correctional Departments, Institutes, Agencies and Paroling Authorities*, College Park, Maryland, 1980.

¹⁹Morton, Joann B.; Callahan, Kirkwood M.; Beadles, Nicholas, *Readings in Public Employment/Management Relations for Correctional Administration*, Corrections Division, Institute of Government, University of Georgia, Athens, 1973.

agencies has increased from approximately 8 to 19 agencies.

With the fairly rapid expansion of unionization in probation and parole agencies, it is interesting to explore some of the likely effects of unionization. First, there may be some input via the union leadership into such personnel areas as hiring, probation, promotions, and termination of employment. Even in agencies where civil service regulations are binding upon employers and employees, the unions have had impact on these regulations through contract negotiations.²⁰ A second area susceptible to contract negotiation is in the area of caseloads. Many commissions and organizations have set "appropriate" caseload ratios, however, many if not most agencies, have exceeded these caseload ratios.²¹

A third area likely to come up as a bargaining issue is training. Again, most authorities and blue-ribbon reports stress the need for continuing inservice and preservice training. While both management and labor might agree to this as a general principle, the amount and type of training perceived to be needed will most likely vary from management to labor.

A fourth area susceptible to negotiation is that of hours of work and work day. In the private sector, as well as some areas in the public sector, the labor unions have negotiated a 36-hour work week. In addition, the work day is set between a specified time in the morning and a specified time in the evening.

Any work required outside these time parameters must receive overtime pay.

A fifth area, related to the above, is that of wages and salary. Such areas as base pay, promotional pay, court time pay, overtime pay as mentioned above, special duty pay, and so forth will all be subject to the bargaining process. An area of particular concern to both probation and parole officers is their special relationship to the court. If there were a work slowdown, stoppage, or strike by probation/parole officers, what might be the response of the court given that special relationship? The question is whether the employee through his union should have influence on matters of policy, agency objectives, and judicial determinations.

Conclusion

In conclusion, probation and parole agencies seem to be on the threshold of entering into the era of unionization. It is obvious that there are areas where both management and labor would agree that the ultimate effect will be beneficial. It is just as obvious that there are areas where labor and management will disagree as to the utility of union involvement. Perhaps both will take lessons from the private sector, and other public sector agencies, and apply new meaning to labor relations. While there are areas in the labor management relationship where the adversary process is appropriate, there are also areas, where as a team, labor and management can present a unified force resulting in progress being made in probation and parole heretofore not possible.

END

²⁰Montilla, M. Robert, *Prison Employee Unionism: Management Guide for Correctional Administrators*, National Institute for Law Enforcement and Criminal Justice, Washington, D.C., 1978.

²¹See for example: *ACA Manual of Correctional Standards*, President's Commission, Task Force Report: Corrections, National Advisory Commission on Criminal Justice Standards and Goals: Corrections.

ONE of the very great challenges in corrections today is how probation management, especially in metropolitan areas, will respond to the demands that change puts upon it.

— JOHN F. KOONTZ, JR.