

THE TRAINING AND EMPLOYMENT OF OFFENDERS

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THE TRAINING AND EMPLOYMENT OF OFFENDERS

I. Introduction

In the reintegration of the ex-offender in the community, no issue arises more sharply than his employment; his ability get and keep a job that will lay the basis for his life outside. The barriers that lie in his way are far from trivial. In the first place, he shares the disabilities of the group from which he is likely to have come. Most offenders are poor and uneducated, and they are disproportionately from minority groups. If he is under 24, he belongs to yet another problem group, unemployed youth. Secondly, he may carry about with him his own personal disabilities--behavior disorder, retardation, poor physical health, overwhelming family problems. Thirdly, he has the problem of his criminal record to overcome, no matter how free he may be of the social and personal disabilities mentioned above.

The distinction between the problems that are unique to an individual and the ones he shares with one or more groups is an important one, both for planning a program and in evaluation. No single program or approach can succeed for everyone; in fact, everyone cannot be socially rehabilitated any more than everyone with a medical disability can be physically rehabilitated. The important task is to discover what approaches are most likely to care for the needs, first of the largest number, and subsequently, for those who have special personal problems or whose immediate milieu is unfavorable.

There are, therefore, two levels at which action must be considered. One is more general--action to overcome to structural barriers to employment that militate against the poor and the uneducated in general; the other is more specific--over-coming the specific handicaps of the individual offender. An example of the first would be negotiation for more realistic educational requirements for jobs; an example of the second would be the attempt to handle the personal problems of the offender that stand in the way of his making a satisfactory work adjustment. For the most part, this paper will deal with the first set of issues. Undoubtedly others with present material

on the psychological and personal problems of offenders, since these are issues that cut across total life patterns, and not merely adjustment to work. In fact, such problems are not unique to offenders and play a role among those who have failed to benefit from the employment programs of the past few years.<sup>1/</sup>

In dealing with individuals in the actual processes of training and placement, these personal problems must of course be considered and dealt with where possible. To do so requires that appropriate services be available in the community. But the structural framework must also be present--the community must have jobs to fill, training to give, and the willingness to provide these opportunities to offenders and ex-offenders.

Unemployment as a factor in recidivism has not been systematically studied; even if it were, it might be difficult to single out its effects. Some of the same factors that make it difficult for an offender to get and keep a job probably operate to encourage recidivism. Nevertheless, employment for the offender is an important step in his rehabilitation, since an unemployed man can hardly be expected to be a good prospect for staying out of prison. As in other social problem areas, we do not know nor can we know what the hard-core problem is until we undertake programs that significantly reduce the margins.

## II. Unemployment Rates of Offenders

That a good deal remains to be done is evident from the data we have on unemployment rates of the groups from which the offender population, or at least that portion of it that has gone through the correctional process, is drawn. In 1965, when the average unemployment rate was 4.6, the rate for non-whites was 8.3;<sup>2/</sup> and non-whites confined in Federal institutions comprised 27 percent of the total prisoner population.<sup>3/</sup> Apart from color, the greatest disadvantage attaches to youth. The unemployment rate for those 16 to 24 was 10.1 in 1965.<sup>4/</sup>

A sample study of Federal prisoners showed a median educational level of eight years of schooling.<sup>5/</sup> The 1965 unemployment rate for

individuals with 8 years of schooling or less was 5.9 percent.<sup>6/</sup>

Given the disabilities that attach to having any of the above characteristics--being non-white, uneducated, or under 24,--the ex-offender is at the additional mercy of his prison record. It is not surprising, therefore, that a California study of youthful parolees found the unemployment rate for whites to be 48 percent and for Negroes, 72 percent.<sup>7/</sup>

It seems clear, even without complete data, that the employment prospects for offenders are poor under existing conditions. In seeking to improve these conditions, the first issue to be disposed of is the employability of unskilled, poorly educated workers in general. Recent studies have made it clear that jobs for such workers still exist in large numbers, although not large enough to absorb all who want to work.

There are really two different questions implied by this statement. First, the rapid economic expansion of the past years has resulted in some improvement of the position of the unskilled, but the pace of technological advance has required relatively fewer workers to produce the same amount of gross national product. In 1966, the growth rate has slowed down, and we cannot therefore expect the situation to improve markedly. The problem has been worsened by the national unwillingness to invest heavily in the types of services (particularly public services) that would significantly expand opportunity for the unskilled.

Jobs for the unskilled are still potentially plentiful. Furthermore--and here we come to the second question--there is little evidence of an overall shortage of highly skilled and highly educated manpower. Present realities are very well expressed by the following paragraphs from the report of the Commission on Technology, Automation, and Economic Progress:

We have found it useful to view the labor market as a gigantic "shapeup", with members of the labor force queued in order of their relative attractiveness to employers. If the labor market operates efficiently, employers will start at the head of the line, selecting as many as they need of employees most attractive to them. Their choice may be based on objective

standards relating to ability, or on dubious standards of race, sex, or age; wage differentials may also be important; and formal education may be used as a rough screening device. The total number employed and unemployed depends primarily on the general state of economic activity. The employed tend to be those near the beginning and the unemployed those near the end of the line. Only as demand rises will employers reach further down the line in their search for employees.

If the relative disadvantages of the unskilled and uneducated have increased in recent years, the main reason is that the economy is less, not more, likely to run out of skilled and educated men and women. Thus the important factor is the impressive gain in the educational attainment of the labor force. The proportion of workers aged 18 years and over who have completed 4 years or more of high school has risen from 43.3 to 57.5 percent since 1952; those with 4 years or more of college, from 8 to 11.6 percent. <sup>8/</sup>

As the general level of education rises, those with little education are more disadvantaged. It is important to point out, however, that the disadvantage is relative; it is not an absolute in terms of the requirements of all available jobs. An analysis of changes in the occupational structure led A. J. Jaffe, for example, to conclude that advancing technology does not necessarily require more formal education than is presently available in the work force, if the criterion is ability to do the job. <sup>9/</sup>

### III. Prison Labor

Although modern penology subscribes to a theory of corrections, prison labor continues to be an administrative expedient beset by conflicting assumptions and attitudes, but primarily concerned with keeping men busy as a means of maintaining discipline and with making a profit in order to reduce costs.

The discussion of mandatory employment in the Manual of Correctional Standards typifies the problem of conflicting goals:

The constructive, full-time employment of prisoners is a basic requirement for their social and economic rehabilitation. It is a mandate imposed upon the prisoner and the state under basic judicial law and policies.

Constructive employment, designed to reduce the cost of custody and maintenance of the prison population, is a fundamental responsibility of governments and administrators of correctional systems. Efforts should therefore, be directed towards full employment of all able-bodied prisoners in the interest of reducing the tax burden incident to their confinement and rehabilitation. <sup>10/</sup>

This statement of intent falls far short of realization. Mandatory employment is unrealistic and unattainable in almost all prisons. The conditions under which work is performed are not defensible in terms of rehabilitative goals. The tax saving of prison labor is questionable.

Prison labor is an example of the persistence of a punitive rather than a correctional attitude toward prisoners. To all intents and purposes, regardless of the 'treatment' program, a prisoner is under penal servitude. He has lost not only his freedom and a number of his civil rights, but also the right of a return for his labor. Having isolated him from society by walls, and eliminated almost all opportunity for free choice, he is further placed in a position of low status by working on a job which offers a token payment. Under such circumstances, administrative rationalizations regarding prison labor hardly balance the deleterious results. If a prisoner works, it is to avoid the monotony of doing time, and to use his meager wages for the purchase of the few items which make existence bearable. Under existing conditions it is illogical to expect him to find satisfaction in working or to develop "habits of industry".

The wages paid prisoners defines to them the value of the work they are doing. The Fifth International Penal and Penitentiary Commission of 1875 meeting in Paris makes explicit an attitude that is still implicit today.

Question: Have prisoners a right to wages? Or should the product of work be employed in the first instance to cover the maintenance expenses of all prisoners of one category, reserving for each of them a fixed part of the product and giving, as a regard, gratuities to the most deserving?

Answer: 1. The prisoner has no right to wages. 2. There is an interest for the state to give the prisoner some remuneration. <sup>11/</sup>

This stance was supported many years later by the Attorney General of Texas, who in 1913 held

... that a law authorizing the payment of wages to prisoners was unconstitutional on the ground that when an offender is convicted he loses not only his freedom but also his right to the products of his labor, and that the sentence makes him both a prisoner and a slave. The state constitution, with two exceptions provide that slavery is illegal, except for conviction of crime. <sup>12/</sup>

The state of Texas currently does not pay wages to prisoners.

The question of whether prisoners have a right or an obligation to work is linked to the question of whether or not they shall receive the product of their labor. If work is mandatory, then any wage is charity. Moreover, under such conditions work is penal servitude and cannot be compared with ordinary labor, either by definition or in terms of remuneration. It may be argued that prisoners are no longer obliged to work; in fact, not all of them are working, but this would seem to be the case only where there is not enough work to go around. There are still some prisons where a prisoner works or goes into isolation or segregation.

If the right to work (where sufficient work exists) were an accepted principle, prison labor would still stumble over the wage problem. It is difficult to believe that making work a right rather than an obligation would raise the status of prison labor so long as the prisoner was denied the product of that labor.

A brief review of the wages paid by some prison systems graphically illustrates the nature of the problem.

Bureau of Prisons	\$ .12 to .30 per hour
California	.02 to .12 per hour
Florida	no pay - industrial good time at the rate of one day per month.
Illinois	\$14 to \$18 per month
Iowa	.04 to .08 per hour

Kentucky	.08 per hour
Michigan	.025 to .09 per hour
Minnesota	.15 to .80 per day
New York	.05 to .30 per day
North Carolina	none
Ohio	.04 to .085 per hour
Texas	no pay - industrial good time at the rate of one day for each day worked.
Wisconsin	.35 to .45 per day

However prison labor is defined theoretically, such wage scales obviate the possibility that work can be meaningful to the prisoner. The rationale for paying wages, as stated in the Manual of Correctional Standards again demonstrates the contradictions.

Incentives: Prisoners qualifying as cooperative and qualified workers, and contributing to the financial success of the activity, should be enabled to receive some financial remuneration for their efforts, as a means of contributing to the support of their dependents, of accumulating a financial reserve prior to date of release and as a means of maintaining and improving their morale and self-respect while under confinement. <sup>13/</sup>

It is difficult to understand how a prisoner will be able to contribute to the support of his dependents, accumulate funds, or even buy cigarettes on the wages he receives.

#### Resistance to Prison Industry

The development of greater correspondence between theory and practice has been hindered by the long-standing resistance to prison labor. The reaction to prison labor has been a step-by-step response to the historical development of four types of prison industry:

- (1) Lease - the state relinquished responsibility for the care and custody of prisoners and received payment for their labor. This system, because of its inequities was finally abolished in all states by 1936.

- (2) Contract - the state sold the prisoners' labor for a specified daily sum, but kept custody of the prisoner.
- (3) Piece-Price - the entrepreneur furnished the materials and paid the state for each finished item.
- (4) State account - the state purchased the raw material, manufactured and sold the finished product to state agencies.

Organized opposition to the use of prison labor has come from both labor and industry, singly or in concert. In 1929 Congress passed the Hawes-Cooper Act, which divested state products of their interstate character and made them subject to state laws on arrival at destination. In 1935 the Ashurst-Summers Act was passed which made mandatory the labeling of prison products intended for interstate commerce and which further prohibited transportation companies from transporting prison products into any state in violation of the laws of that state. Both of these laws were enabling legislation and by 1935 most states has passed legislation against prison-made goods. The Act of October 14, 1940, put an end to interstate transportation of goods with the exception of agricultural products.

The hostility of industry and labor is based on the existence of unfair competition from a tax-supported industry that employs 'slave labor'. As a consequence, the operation of prison industries has tended to be cautious. Although with few exceptions products are no longer sold on the open market, and the principle buyers are state and local government agencies, prison industries are still constantly harrassed by industry and labor. This conflict has continued through the years. For example, in 1937 New York has a state-use market of \$20 million but could secure only \$2 million worth of business for prison industry. <sup>14/</sup> In the same state free industry reacted to the installation of a modern printing plant at Sing Sing by securing legislation limiting its use to printing for the State Department of Corrections. <sup>15/</sup>

Time has not softened industry's and the unions' attitudes. In 1963 Florida legislature passed a law restricting the sale of prison-made goods to state institutions only. <sup>16/</sup> Apparently this occurred after a prison submitted the low bid to supply concrete culvert pipes for highway construction. "Every road builder in Florida called the governor. They feared competition would spread to actual building of roads by convicts", recalled a veteran of the hassle. <sup>17/</sup>

The Florida Wholesalers Association is presently campaigning against exceptions in the 1963 legislation that allow local government to purchase such prison made items as canned goods, metal school lockers and uniforms for city workers. <sup>18/</sup>

A tire company in Texas will lose \$70,000 in tire recapping sales, when its state contract expires. The manager of the company is angry over his loss of a contract to "slave labor". <sup>19/</sup>

The above examples are not isolated cases. Any prison administrator can cite instances of similar reactions to the development of work programs and the attempts by prison industry to expand the state-use market. To what extent are such reactions justified? In 1956 the aggregate sales of prison products was estimated at \$90 million. <sup>20/</sup> The gross national product in 1956 was approximately \$440 billion. <sup>21/</sup> Prison products were .024% of the gross national product that year.

In 1965 the gross national product has increased 75 percent to approximately \$625 billion. If prison industry sales were to have increased 100 percent, prison industries would still account for only .028 percent of the gross national product. They can hardly be considered as serious competition in the aggregate.

The problem however is not a general one; rather it arises from response to specific situations. The Texas tire firm which will lose a \$70,000 contract is a case in point.

The dilemma of a state attempting to expand prison industries without incurring the hostility of private enterprise is exemplified by this case.

It is apparent that no easy solution presents itself. Given the historical antipathy to prison industry it is questionable whether programs to educate private enterprise would be successful. In any event some method must be found as an alternative to precipitous action on the part of state officials in expanding the market for prison made goods.

The Product, Work Experience Dilemma

Prohibited by law from sale in the open market, prison industry is severely limited in the goods it can produce and thereby restricted in the types of work experience it can provide offenders. The result is work assignments which often bear little if any relation to the present labor market.

The Iowa prison industry system includes a knitting mill, textile mill, tailoring, and mattress manufacturing. Minnesota's major industry is binder twine and cordage. New York's two largest industries are cotton and woolen textiles and garments. Texas's major products are garments, license plates, brooms and mops, and canned goods.

Outside the prison there is little demand for workers with experience in the manufacturing processes listed above. It is apparent, however, that correctional administrators, faced with the need to avoid idleness, with a judicial mandate to work prisoners, and a goal of rehabilitation, must resort to any type of work within their capability to provide.

Prison administrators are often poor advocates in the defense of prison industry. The punitive aspects of prison labor have been thinly disguised and rationalized in response to administrative needs and the desire for profits. Yet for all the emphasis on making industries self-supporting, prison industries are notoriously inefficient. Under present systems of organization, it is doubtful whether they could survive if true wages were paid. Short hours, inflated work, and overmanning are the rule rather than the exception.

We have already pointed out that correctional administrators see prison labor as a means of developing "habits of industry." Their goal is similar to that of program directors everywhere who, having the responsibility for pre-employment training, justify poorly designed activities as, in fact, providing necessary work experience. In both cases, it seems clear that meaningful work experience can only take place under conditions approximating those of real work settings with respect to production methods, work expectations and supervision. A rationally operated prison industry would contribute greatly to the support of a correctional program by demonstrating to the prisoner that correctional practice is consistent with its goals.

Present trends point to a decrease in prison populations. The expanding use of probation, parole and work release indicate that the shift in corrections is toward treating the offender in the community. This trend makes the need for a rational use of prison industries more compelling. The increase of community programs will result in a hard-core prison population of long-term serious offenders. Managing this group will present difficulties, and the present system of prison labor will not meet the challenge.

Arguments by industry and labor - that prison industries will pose unfair competition can be answered by market allocation and the establishment of a sound accounting system and fair pay scale. In short, prison industries should be transformed into true industrial operations.

## Recommendations

(1) State governments must exercise their right to allocate a percentage of the state market to prison industries sufficient to eliminate idleness. There is no rational or economic reason for not doing so.

Market allocation can be accomplished without seriously disrupting the local economy if it is planned and takes place in small increments. Under such circumstances the losses to private industry can be recovered by economic growth. Barring this, the state could give a special tax credit to the affected industry.

Another approach would be to organize state economic councils that would include industry, labor and economic planners who could attempt to find reasonable alternatives to the problem.

(2) When a percentage of the state market is given to a prison industry, sufficient to support that industry adequately, the industrial operation should be organized to conform to modern business methods. This should include cost accounting, quality control, and accurate financial reports which reflect production costs and value of goods produced.

(3) Products should be sold at true market value. This would result in prison industries and their products being placed on a par with "free industry" and contribute to the elimination of complaints of unfair competition. It would also help define to the prisoner the value of the work he is doing.

(4) Prisoners should be paid a wage equal to that paid on the open market for similar work. The effect of current wage scales is that the prisoner subsidizes inefficient production. Furthermore, the scale is unrealistic with respect to rehabilitation goals. It contradicts the demonstrated value of incentives for productive work, and it makes the raising of quality and increased production impossible. Low wages give prison industries a low status not only to the prisoner but also to society. The tangible wall surrounding the prison is made higher by the invisible wall of attitudes that cuts off prison labor from any direct comparison with labor in society.

(5) Prisoners employed in prison industries should be required to provide support for their families, pay per diem cost for confinement, and make restitution to their victims where financial loss is incurred. It is self defeating to take a man out of society and at the same time obviate any opportunity for him to continue his family and other obligations. It would be immeasurably more beneficial for a prisoner to feel that his work is supporting his family rather than to know they are on welfare.

(6) Prison industries should be expected to be self supporting. A reasonable portion of the government market, capable management and decent wages would meet this requirement.

(7) The industry should operate on a revolving fund, without the need to go to the legislature for funds. Moreover, like 'free industry' it should develop a reserve for future capital outlay. The revolving fund should be protected by law so that it cannot be raided by the legislature. It would be desirable, however, that a limit be placed on the amount of surplus which can be accumulated.

(8) The industry should be operated as a corporation, with a board of directors, and should include representatives of both labor and industry. Such representation would satisfy the requirement that the major sectors of society who should have an interest in the correctional process be represented. Furthermore such individuals could be expected to give expert guidance to the industrial program.

(9) Prison industries must give the prisoner an opportunity to compile a work record while confined. For this purpose, accurate records must be kept of his prison employment history and include job descriptions and work evaluation reports which he can submit to his prospective employer upon release.

#### IV. VOCATIONAL TRAINING IN INSTITUTIONS

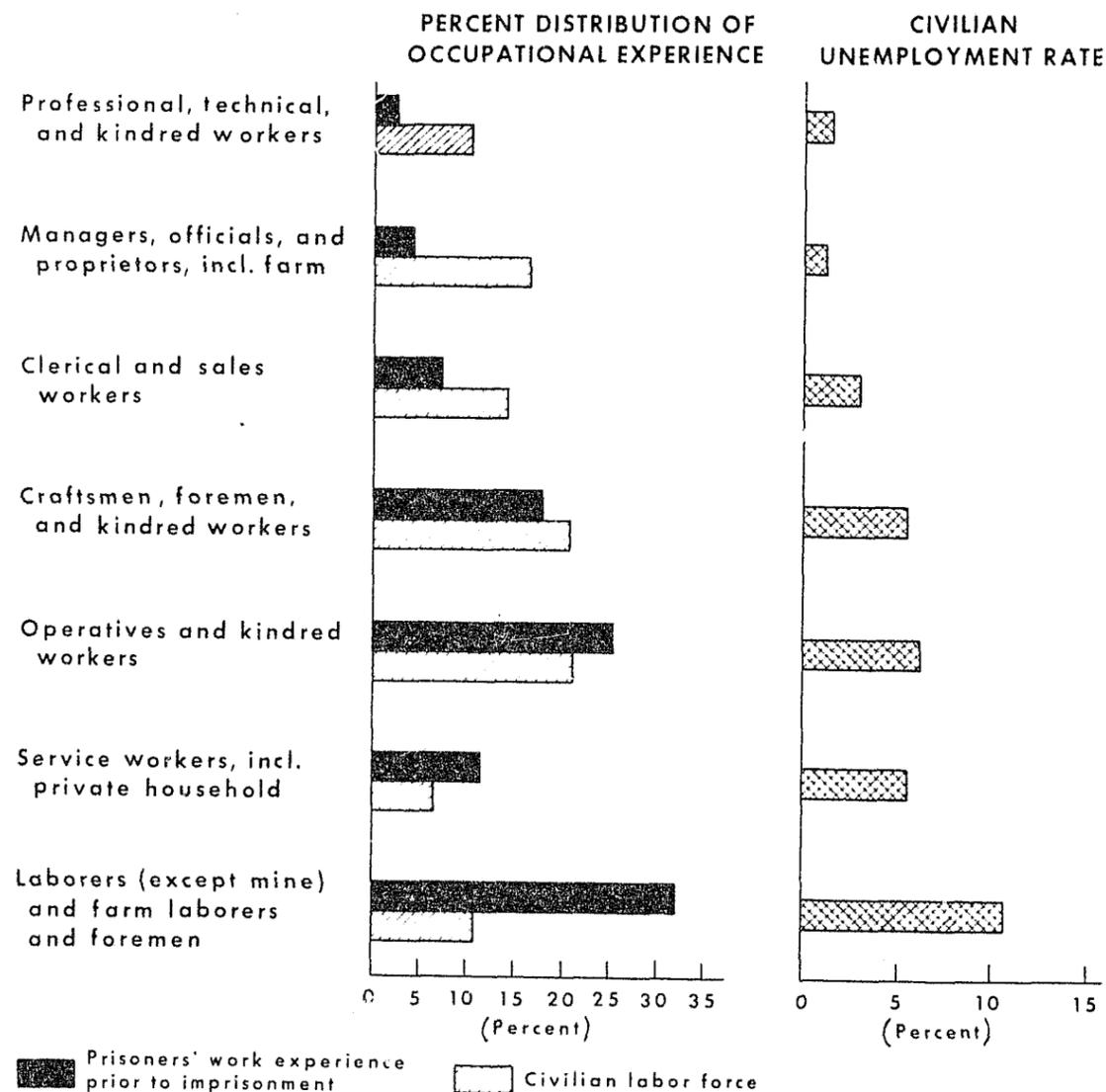
Formal systems of vocational training began to expand in the United States in the late nineteenth century as a response not only to the educational needs of a rapidly growing high school population but also to industrial demand for skilled workers that was being met neither through apprenticeship nor immigration. In correctional institutions, vocational training was an innovation connected with the opening of the Elmira Reformatory in 1876. Zebulon Brockway, the first superintendent, published a scheme for the essentials of the "Elmira system" in which he recommended facilities for the manual training of one-third of the prison population. "Where a thousand prisoners are involved, thirty-six trades may be usefully taught." <sup>22/</sup>

In any attempt to assess the value of current schemes, it is important to recall that historically this kind of training was designed, if not as a substitute for apprenticeship, at least with the same type of crafts or trades in mind. Modern industrial and service jobs depart so markedly from this model that many can hardly be called occupations in the sense of a job with a clearly delineated body of skills and set of functions transferable from one employment to another. Under these conditions, the fact that pre-employment classroom training is not the most successful means of preparing individuals for work is not surprising.

Even though there are serious obstacles in the way of successful vocational training programs, they have often been introduced as a means of rehabilitating offenders through providing opportunity for upward mobility. Recognition of the fact that the prison population is composed largely of unskilled workers (see the chart below which is reproduced from a Labor Department report) has provided the impetus for program development.

**THE MAJORITY OF PRISONERS HAVE WORKED IN OCCUPATIONS THAT REQUIRE THE LEAST SKILL AND HAVE THE HIGHEST UNEMPLOYMENT RATES.**

Occupational Experience Reported by Prisoners Before Imprisonment and by the Civilian Labor Force, and the Civilian Unemployment Rate, April 1960 <sup>1/</sup>



<sup>1/</sup> All data are for males only; since the correctional institution population is 95 percent male, data for males were used to eliminate the effects of substantial differences between male and female occupational employment patterns.

Source: U. S. Department of Labor, Manpower Administration, Office of Manpower Policy, Evaluation, and Research, based on data from U.S. Department of Commerce, Bureau of the Census.

The scope of vocational training programs varies, depending on the size and financial capability of the correctional system. Unfortunately, most estimates of the extent of training lump together formal training offerings and informal on-the-job training in prison industries. The latter, as we have seen, lacks variety and relevance, and while some inmates undoubtedly benefit from the training aspects of their prison employment, it is difficult to assess the effect of such informal training in the aggregate.

The Federal Bureau of Prisons reported in 1965 an expenditure of some \$1.6 million for the vocational training of some 11,000 offenders. Of these, 1,300 men were actually receiving classroom training. <sup>23/</sup>

Unfortunately, data as to course offerings and numbers of enrollees are not available for state and local institutions. We do know, however, that state and local systems typically have less variety and fewer trainees per capita than the Federal system. This means that vocational training is offered to a small minority of prison inmates. In terms of coverage, it has been estimated that there was only one vocational or trade instructor for every 370 inmates in state prisons in 1962. <sup>24/</sup>

In large jurisdictions where most programs exist community agencies are involved in their establishment and maintenance. The Federal Bureau of Prisons works closely with unions, and where apprenticeship is offered, with the Bureau of Apprenticeship and Training of the U. S. Department of Labor for instructor certification and curriculum development.

California has developed advisory boards with representation from labor and industry to furnish advice on course development and labor market needs. They also serve the purpose of assuring that the training offered is recognized by the unions.

Minnesota has developed apprenticeship programs under the Apprenticeship Division of the state Industrial Commission. Advisory boards of labor and industry have been organized for each trade offered. Training courses meet the same standards as those provided under normal apprenticeship situations. Apprenticeship begun in the institution can be

continued after release. Where licensing is required, examinations supervised by a member of the certifying board can be taken at the institution. It is important to note, however, that these arrangements cover a very small number of trainees. The state prison in Minnesota in 1966 with a population of approximately 1,100 men has about 78 apprentice trainees -- a large number if the frame of reference is apprenticeship, but a small number with respect to training coverage. <sup>25/</sup>

#### Innovations in Vocational Training

Because both apprenticeship and traditional course offerings have proved inadequate, attention has recently been given to the introduction of subjects that reflect newer aspects of technology.

In 1958 the Federal Prison Industries began a program to train inmates in general electronics. The goals of the program were "to teach electronic theory, train inmates to produce electronic equipment and component parts, and to develop technical skills that would enable the trainees to produce the products in such quantities as to make the electronic factory a profitable industry, but most important to develop skilled craftsmen and technicians." <sup>26/</sup> Approximately 110 inmates are presently employed with training for about one-half the group. <sup>27/</sup>

The Federal Penitentiary at Atlanta in co-sponsorship with the General Electric Company held a class in computer programming in 1965. Twenty prisoners participated and 17 received certificates of completion. As of June, 1966, three students had been released; one is teaching electronic controls in private industry; the second was scheduled for an employment interview with G. E. Information on the employment of the third released prisoner is not known. <sup>28/</sup> Similar programs have been conducted at the Federal Penitentiary at Leavenworth.

Office machine repair is a popular vocational training program at a number of institutions. California, Florida and New York are among the state systems engaged in this type of program. Although long range

evaluation has not been done, there seems to be a higher than expected success rate both in job placement and on parole. <sup>29/</sup>

Several innovative programs in vocational training have been funded under the Manpower Development and Training Act. In the Restoration of Youth Through Training Project, undertaken at the correctional institution on Rikers Island in New York City, about 100 young inmates were trained to operate auxiliary data processing machines. The two month training course provided basic literacy instruction with job training and self-management counseling. After their release, the young ex-prisoners were given placement, counseling, guidance, and family referral services.

The preliminary findings of this research project indicate that: (1) most of the trainees were capable of absorbing the training necessary to operate data processing equipment, even though they were school dropouts, and (2) youthful inmates can be given meaningful vocational training even during a relatively short prison term. <sup>30/</sup>

An experimental and demonstration project at Draper Correctional Center in Elmore, Alabama, is also concerned with the training and placement of youthful inmates. Vocational training using programmed learning is being offered for jobs as combination welder, small electric appliance repairman, and technical writer. Intensive counseling and both social and basic education courses are contemplating vocational training.

Between October 1, 1964 and May 16, 1966, 114 graduates of the program had been released. Eight percent had returned to prison; seven percent on parole violations and one percent for new offenses. <sup>31/</sup> Whether this program will significantly reduce recidivism is not known.

While some of the data has accumulated from these MDTA experiments follow-up studies of the effects of vocational training in correctional

institutions are few. The ones that have been done, like those on high school students, are often unsophisticated methodologically and inconclusive in their findings. Generally speaking, however, these studies fail to support the advocates of expanded training.

A pilot study of baker and body and fender trainees conducted by the California Department of Corrections noted that over half the parolees were released at a time when few jobs existed in the trades for which they had been trained. The study found that only one-third of the parolees' jobs were related to their training. <sup>32/</sup> Another study from the same state found that in 1961 "... among parolees who received vocational training during state confinement, approximately 13% obtained closely related jobs, 14% moderately related jobs, and 52% unrelated jobs. Close to 19% had held no jobs since release from institutions." <sup>33/</sup>

A study of California Youth Authority parolees showed the following employment picture:

TABLE 1

EMPLOYMENT BY TYPE OF INSTITUTIONAL PROGRAM

Type of Inst. Program	Total	% with Related Employment	% with Any Employment
All Wards	1, 445	19. 2	80. 2
Wards with Voc. Trng.	657	25.	82. 5
Wards with Voc. Trng. and Work Experience	218	20. 2	80. 7
Wards with Work Exper.	570	12. 6	77. 4

Source: California Department of the Youth Authority, Agency Task Force "The Youth Authority Ward in the Department of Corrections" October 1964, p. 5

The report states: "There were 70 wards who worked in related employment for 21 or more weeks, or more than half their time on parole. This represents only 6. 2 percent of the 1, 128 wards with 30 or more weeks on parole. <sup>34/</sup>

On a questionnaire follow-up of 134 federal reformatory vocational trainees, 78 responded. Of this group, 25 percent claimed employment in the trade for which they had received training. <sup>35/</sup>

Without more information, it is difficult to interpret these studies. The poor placement results may be attributed to a number of causes -- negative attitudes toward offenders among employers; an adverse labor market; lack of relevance of training; and finally, the personality and psychological problems of the offender.

Whatever the relative contribution of each of these factors to the lack of success of pre-employment training in the institution, it is clear that such training alone -- and particularly in traditional occupational classifications -- does not assure the vocational rehabilitation of the ex-offender.

The 1966 amendmants to the Manpower Development and Training Act (as embodied in H. R. 16715) have the effect of liberalizing the Act with respect to funding classroom training for inmates. At this writing, the administrative regulations for implementation have yet to be issued, but in the absence of additional appropriations, large-scale funding is unlikely in the near future.

Classroom Training Outside the Institution

From time-to-time there are proposals that inmates be released during the day to participate in training programs in the community under MDTA and other auspices. These proposals are a response to the very real difficulties in establishing training within the prison -- space is tight, equipment is expensive and soon out-of-date, personnel are hard to recruit. Having inmates attend training courses in nearby communities

where already existing facilities are employed would be cheaper and more advantageous in bridging the gap between the offender and the world outside.

While representing an advance, classroom training in the community is far from problem-free. The report of the Norfolk, Va., MDTA project is very instructive on this point. This program, which enrolled 100 Negro men for a year's occupational training and remedial education also offered a full range of social services designed to cope with the many personal problems of the enrollees. The Norfolk area had, and continues to have, a relatively low unemployment rate. The project was considered more successful than the average institutional project; one year after completion of the training, 89 percent of the graduates were employed, with 41 percent having trained-related jobs. The most successful group were the masonry trainees, a fact related not only to growth in local construction, but probably also to traditional acceptance of Negroes in this trade in the South. Sheet metal graduates did not fare so well because the anticipated opening did not occur; auto mechanics trainees found jobs mainly in service stations where the pay was \$1.50 an hour at best, but generally lower. Maintenance graduates after a full year's training found that the only jobs available paid from \$1.00 to \$1.25 an hour and became "quite disillusioned." <sup>36/</sup>

In spite of the successes of the program, and these are not trivial, the problems were typical. Many low-level occupations do not require lengthy training; training given in anticipation of specific openings may never be utilized when cutbacks in production occur; low entry wages dispel the enthusiasm that good programs can create.

#### RECOMMENDATIONS

(1) More attention should be given to basic literacy programs for inmates, on the grounds that adequate skills in reading and arithmetic are important for gaining entry into the kind of labor market providing steady work at adequate wages. It is beyond the scope of this paper to do more than point out the connections between literacy and occupational preparation, but there can be little disagreement about the desirability of experimentation

and expansion of educational opportunity within correctional institutions.

(2) The situation with respect to vocational training is not sufficiently clear to warrant complex prescriptions. The 1966 amendments to the MDTA which authorize the funding of prison-based training programs should open the way to appropriate experimentation and the gathering of data suitable for evaluating the effects of such training. To this end, supplemental appropriations are recommended; otherwise the program is likely to remain on paper for at least the next year since state plans have already preempted available funds.

(3) Congress should reconsider the prohibition with respect to participation of day-release offenders on-the-job training programs under MDTA. Existing arrangements in the community may well be a better source of training than can be provided even by elaborate arrangements within prisons.

(4) It is to be hoped that, by the same logic as we have recommended realistic wages for inmates employed in prison industries, MDTA regulations will permit payment of training allowances for prisoners participating in the planned experimental training programs.

(5) Where vocational training programs now exist or are established the following recommendations are made:

a. Training for low-status, low-paying jobs is a waste of time if the rehabilitation of the prisoner is at issue. Marginal employment upon release provides little to stand in the way of recidivism.

b. Programs of training within the institution should be articulated with community-based activities on behalf of the offender to insure placement or continuance of training.

c. Efforts to involve community forces in the planning and carrying out of institutional training programs must be extended and deepened.

## V. WORK RELEASE

Probation and parole have been the traditional methods of integrating the offender in the community. The probationer serves his sentence in the community thus avoiding both the stigma and the desocializing experience of incarceration. The parolee also serves a portion of his sentence in the community for the purpose of testing out the rehabilitative process and for supervised assistance in readjusting to society.

Although both probation and parole are well established correctional techniques, they have lacked the flexibility necessary for some offenders. In this sense, work release as it applies to felony offenders can be considered an intermediate step in both probation and parole.

Basically, work release is a procedure whereby an offender serves his sentence in an institution but is released during the day so that he may work in private employment. The term work release has a number of variations. In Wisconsin it is known as day parole or 'the Huber Law'; California refers to it as work furlough; and in Pennsylvania it is referred to as the outmate program. <sup>37/</sup>

Historically work release has been limited to misdemeanants, although in recent years it has been enlarged in scope to include felony offenders. Over one-half the states, the District of Columbia, the Federal Bureau of Prisons and the Armed Services have statutes authorizing work release.

The number of states authorizing work release for misdemeanants is not in itself a cause for optimism, because few work-release programs have progressed past the paper phase. Grupp states; "... in most states, work release is a sentencing procedure for selected misdemeanants and felons, but beyond this provision no program exists." <sup>38/</sup>

Where it has been well established, the program has shown steady growth. Wisconsin for example shows the following expansion: <sup>39/</sup>

Year	Total Sentences	Huber Law Sentences	Percent
1956	7,682	2,654	34.5
1960	9,813	3,215	32.8
1964	11,252	5,391	47.99

North Carolina also has a well established work-release program. For the period 1957 through 1965, 1,917 felony and 5,249 misdemeanor applications were approved. <sup>40/</sup>

The passage in 1965 of the Prisoner Rehabilitation Act, which extended work release to inmates of federal prisons has focused attention and given impetus to the establishment of this type of program. The Federal Bureau of Prisons estimates that approximately 1900 offenders, about 10 percent of the prison population, will eventually participate.

#### Administration of Work Release

For misdemeanants, work release is usually granted at time of sentencing and is administered locally by the county sheriff, as in Wisconsin. California requires that the county sheriff or probation officer be appointed Work Furlough Administrator and that the county adopt the program by county ordinance or resolution. North Carolina law provides that either the sentencing court or the Parole Board may authorize work release. <sup>41/</sup> North Carolina and Maryland work-release programs are administered by the state correctional system, whereas in Wisconsin and California it is county-administered.

The work release program for misdemeanants differs significantly from that for felons in that the sentencing court can provide work release as a part of the sentence. At this point in the development of the program, there is no such provision for felony offenders.

At present, work release for felons is used as a method of providing linkages with the community by giving the offender a gradual exposure to society. Thus, the Federal work-release program is limited by policy to those offenders with not more than six months remaining prior to probable release. <sup>42/</sup> The North Carolina law requires that the prisoner have served at least one-fourth of his sentence if determinate and one-fourth of his minimum sentence if indeterminate. The North Carolina law permits exceptions, however, upon recommendation of the sentencing court. <sup>43/</sup>

#### Military Work Release

The military services have had a work release program since 1959, designated as base parole or installation parole. The prisoner is permitted to work in the military community in uniform during the day and travel to and from his assignment unescorted. Base parole is granted by the commanding officer of the confinement facility. There are no provisions for wages and disbursement of earnings since military prisoners receive pay while confined except for the amount deducted as forfeiture by the sentencing court-martial.

#### Financial Arrangements and Costs

Almost all work release laws make provisions for management and disbursement of inmate earnings. Wisconsin statutes provide that the sheriff shall collect wages of employed prisoners and disburse them in the following order:

1. Board of prisoner.
2. Necessary travel expenses to and from work and other expenses incidental to employment.
3. Support of the prisoners dependents as ordered by the court.

4. Payment of debts acknowledged in writing or which have been reduced to judgements, fines and court costs, all as ordered by the court.
5. The balance to the prisoner upon discharge.

The North Carolina statutes include similar provisions with the exception of the requirement relative to debts and fines. The Federal work-release statute specifies payment of room and board only.

The financial return to governments and contributions to family support make a strong case for work release. In 1964 Wisconsin work release prisoners earned \$942,000, which was distributed as follows: <sup>44/</sup>

<u>Total</u>	<u>100%</u>
Support of prisoners dependents	32.2
Prisoners board	27.9
Payment of debts, fines and court costs	16.1
Travel and personal expenses	11.0
Balance	12.8

During the period 1957 through 1965 North Carolina work releasees earned \$5,587,352.12. <sup>45/</sup> The distribution was as follows:

Prison Maintenance	\$1,839,195.79
Transportation	456,207.01
Support To Families	1,494,368.42

In the month of December 1965 alone, 116 inmates on Federal work release earned \$22,552.33. <sup>46/</sup>

It is apparent that the financial return to the prisoner, his family and the government is considerable. Although serving a sentence, the offender remains a wage-earning, tax paying member of society.

#### Housing of Work Releasees

The confinement of misdemeanants in the community not only facilitates job finding, but removes the barrier of distance from their work. The Wisconsin law excludes the Milwaukee House of Correction from participation in the program in order to encourage the housing of prisoners in the county jail and thus provide expansion of the program. The House of Correction is not centrally located, whereas the county jail is. <sup>47/</sup> The Wisconsin Division of Corrections, although not administratively responsible for the misdemeanor work release program, has an inspection unit which has played a significant part in the upgrading of county jails. The continuing emphasis and expansion of the work release program has undoubtedly been an important influence in the location of new construction.

The extension of work release to felons has created a problem in providing accommodations for work releases. North Carolina permits their transfer to local jails so that they may be located near employment. Provisions is also made for jail inspection service. Although there is no legal requirement, it is apparent that jails will have to meet certain standards if they are to house state prisoners. The prospect of receiving monetary return for this housing may well be an inducement for upgrading facilities.

The Federal Bureau of Prisons has similar problems in housing in order to maximize use of work release. The Attorney General is empowered to designate places of confinement whether or not maintained by the Federal Government. Local jails approved by the jail inspection section could theoretically be used. However, the Bureau of Prisons is housing work releasees in special units outside the security perimeter of the institution, or in special honor units if such a special unit cannot be furnished.

A further innovation is the development of community treatment centers. These are located in metropolitan areas and house prisoners who may be transferred to the centers prior to parole. Such a procedure insures the offender an opportunity to be near his family and to find employment in an area where he would normally be paroled.

To date the Federal Bureau of Prisons has 6 residential community treatment centers in many cities. Present plans call for a total of 34 centers serving offenders by 1972. <sup>48/</sup>

#### Problems in the Implimentation of Work Release

The release of prisoners to work in the community poses problems which, although not insurmountable, can loom large if the program is not well administered. The community may not be receptive to a sizable influx of prisoners. The Federal program, for example, reflects sensitivity to union interests. Public Law 89-176 states that prisoners may be released to work at paid employment in the community provided that:

- (i) "representatives of local union central bodies or similar labor union organizations are consulted;
- (ii) such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality to impair existing contracts for services; and
- (iii) the rates of pay and other conditions of employment will not be less than those paid or provided for work of similar nature in the locality in which the work is to be performed." <sup>49/</sup>

The memories of the contract system era of prison labor die hard.

The establishment of halfway houses requires tact and careful site selection. Although no major problems have arisen as yet, some communities may need reassurance when residential facilities are being established.

One specific issue is the probability of escape. The correctional administrator, aware of the careful selection process for work release, may have confidence in his prisoners, but his knowledge is not shared by the public. Fortunately, the small incidence of escapes has obviated serious public reaction.

The benefits to the offender of work release are readily apparent. For the misdemeanant it means continuation of family and employment ties. For the felony offender, it reduces the dislocating effects of release. The ex-prisoner is expected to resume his responsibilities immediately, and welfare aid to the family is terminated, all too often before he is in a position to shoulder the expense of providing for his family's needs.

Work release provides a transitional period that obviates the floundering often experienced by the man who must accept any job in order to gain his freedom on parole.

The opportunity to work at gainful employment has psychological results which cannot be measured. For families receiving support, complete or partial ties are strengthened by this demonstration of financial responsibility. For the inmate who may have had the experience of steady employment before imprisonment, the job which pays a fair wage can only have a positive effect. For those who may have learned a skill in the institution, work release offers an excellent opportunity to test out a newly learned occupation. For others, the job may be a training situation in which new skills are acquired.

Just as important as the effects on individual prisoners is the possibility of far-reaching consequences for corrections as a social institution.

More than any other innovation, work release represents the shift of focus to the community.

As long as corrections restricted the rehabilitative process to institutions removed from the community, the physical and psychological distance created obstacles to program development and eventual re-integration of the offender. With work release and the concomitant development of halfway houses or community treatment centers, the correctional institution has extended itself into the community. In a sense, the walls of the prison are no longer opaque and to a certain degree the policies and practices of corrections are more visible. To take an optimistic view, the following list points to areas of possible improvement as work release expands.

1. The increased use of work release for misdemeanants will require proper selection and necessitate better reporting to the courts by improved probation staff.

2. Until community treatment centers are established on a state level, some states will continue to house felony work releasees in county jails. Development of standards for county jails and approval by state jail inspection units can only have a salutary effect on these institutions.

3. The delegation of more than a custodial function to county jail personnel will require role changes on their part. In jails conducting sizeable work release programs, the addition of employment counselors, and treatment personnel will be necessary. The function of the county jail will continue to change and require increased competence of all personnel, particularly the sheriff.

4. Work release requires better communication between correctional and welfare agencies. The administrative arrangements for support in the form of supplemental payments if the wage earned is not sufficient, or full maintenance when the offender loses his job or is terminated by revocation of work release, will require a greater flexibility

on the part of welfare departments. Otherwise, a family may find itself in extreme financial need but helpless in the face of bureaucratic inertia.

5. While work release has been nominally conceived in the past, the Federal Bureau of Prisons adoption of the program has already resulted in some broadening of the concept.

For example, where facilities exist, prisoners are being released to attend educational and vocational training courses in the community. Similarly the District of Columbia Department of Corrections permitted one inmate to attend a local university.

We have already commented on the possibilities and problems of release for classroom training in the community. What is an even more logical extension of work release is the provision of specific opportunities for on-the-job training. Though these can be provided to some extent through prison industries, the opportunities outside are and always will be far greater.

Unfortunately, the 1966 amendments to MDTA prohibit support for inmates in the community on-the-job training programs. It is worth pointing out, however, that in an industrial structure like our own where the large middle range of jobs tend to be narrowly defined in each place of employment, on-the-job training is the means of choice for acquiring training. The experience of MDTA is clear on this point. More than nine out of ten on-site trainees have secured employment after completing their MDTA training period, normally with the employer who has provided the training. <sup>50/</sup>

The job is a known entity and exists under real conditions in a real workplace. The learning is related not only to skills, but also to supervision and relationships with other workers. Furthermore, under MDTA the cost to the government of OJT is about one-third of institutional training. Government outlays are limited to covering the cost of supervision and materials utilized in training, and the employer pays the trainee's wages.

After a slow start, OJT has grown rapidly in the last year, probably because of the tightening of many labor markets across the country. Recently, MDTA has also begun to enroll more disadvantaged workers than formerly.

The results of surveys conducted from 1962 to 1964 showed that while a somewhat larger group of employers preferred government-aided subsidized on-the-job training, the proportion of those preferring OJT was far above the ratio of OJT projects at that time. While this balance has been redressed to some extent, the potential for OJT is still not met. The advantages of OJT indicated by employers included greater company control over training, training for specific company jobs, use of up-to-date equipment, and immediate placement of trainees. <sup>51/</sup>

The expansion of work release programs to encompass release for training may be a more realistic method than training in the institution.

### Recommendations

(1) The Federal statute pertaining to work release should be amended to include a provision for granting work release by the sentencing court. There is a need for flexibility in sentencing so that the offender who does not need incarceration and who may be harmed by it, but who is in need of greater control than that provided by probation, can be given the benefit of a more rational and specific treatment program.

(2) States now having but not fully utilizing work release, should be encouraged to expand their programs. It is to be hoped that states not providing work release will consider the desirability of adopting it.

(3) Federal funds should be provided for the establishment of half-way houses for work releasees where states are financially unable to support them.

(4) With respect to the administration of work release: For misdemeanants, local control is in keeping with program objectives. Half-way houses for felony offenders should be under state control and administered by institution personnel. While halfway houses are preferable, good administration requires that felons housed in county jails be under the immediate control of the sheriff, with the state setting housing and administrative standards.

(5) In spite of the failure of the 1966 MDTA Amendments to provide for on-the-job training slots for offenders on work release, efforts should be made to expand work release as a training device and as a source of possible placement for the paroled once his "halfway house" experience is at an end.

## PROBLEMS OF POST-RELEASE EMPLOYMENT

### Access to Employment

Traditionally, a prisoner requires a bona fide job offer before he is released on parole. Many prisoners serve "overtime," time beyond the date of scheduled parole, for lack of a job commitment, at considerable unnecessary expense to the public and with consequent damage to their morale. On the other hand, there is evidence that the requirement is loosely administered in some jurisdictions, and many inmates are released without a permanent, full-time job in view.

Although data on post-release experience are scarce, it is clear that ex-offenders have high rates of unemployment. The practical problems in finding the first job after being in prison are often exacerbated by administrative procedures. The paroled, but not yet released, offender must find his job through correspondence, often involving intermediaries; generally, he is unable to give his prospective employer a starting date.

The length of time required to find employment makes it necessary that job hunting begin sufficiently in advance to obviate confinement after the date for parole has been set. It is not often that an employer will hold a job open until parole is granted or until the administrative procedures of release are completed. Nor is it often that an employer will consider the man for a job pending parole consideration.

The problem of coordinating job availability with the granting of parole is a difficult one and does not lend itself to simple solutions. It would seem reasonable, however, to make the man available for release at any time after parole is granted.

The New York State Division of Parole has attempted to meet this problem with the Reasonable Assurance Release Policy. Under this program selected inmates may be released on parole without having approved employment.

The results have been favorable, with no significant difference in further delinquency between the group released under Reasonable Assurance and those placed through efforts of Parole Officers or Parole Employment Officers. <sup>52/</sup>

An opportunity to become more directly involved in job seeking is provided through the work furlough procedure used by the Federal Bureau of Prisons. The Prisoner Rehabilitation Act of 1965 (Public Law 89-176) authorizes furloughs to federal prisoners for a variety of reasons including unescorted leave to seek employment. An inmate is more likely to find work if he can present himself for an interview, since employers naturally hesitate to hire a person on the basis of a letter. The weakness of this innovation is that few inmates have sufficient funds to cover transportation and the other costs of extensive job seeking. Considering the location of federal institutions, one such trip could substantially deplete any savings the inmates may have accumulated. <sup>53/</sup>

In assessing the employment problems of offenders, it is important to recall that personal contact plays the major role in job-seeking and job-finding among American workers. It is especially important in obtaining blue-collar and lower-skilled service jobs. A number of factors reinforce this pattern. Workers typically lack information about the local labor market as a whole especially if they have not had very much work experience. Their knowledge of job types and specific openings is gained from family, neighbors and friends. Where these individuals themselves have little relevant experience, the knowledge available is severely limited. On the other hand, employers who are satisfied with the performance of their own workers tend to draw new employees from the same groups. Even where no conscious effort is made, the system is relatively closed, and succeeding generations of workers tend to find the kinds of employment typical of their milieu. This informal pattern of access explains why the public employment service accounts for only 10 to 15 percent of all hires. Employers have no obligation either to list openings or to employ referrals.

A major departure from the pattern occurs at the middle levels of the occupational structure. At the upper levels (professionals and managers), informal networks of communication also exist (the scientific meeting, for example), but among technical, secretarial, and other white-collar groups, the placement agency, public and private, plays a more significant role. The personnel involved are required to have specific skills, many of which are acquired in pre-employment training. These are the skills that can be set down in personal resumes, reviewed, tested, and used as the basis for referral by the agency and recruiting by the firm. The growing activity of the public employment service in the placement of college graduates attests to the greater feasibility of agency involvement at this level.

It is clear that this pattern of job-seeking and job-finding is of little practical use to the ex-offender. He may be entirely cut off from his former community, or his ties may be entirely with persons whose work experience is as limited as his own. Nevertheless, in most instances, the offender finds employment through his own efforts or with the aid of friends and family. A survey of 602 Federal releasees found the following: <sup>54/</sup>

<u>Job Obtained Through</u>	<u>Number</u>
Family	220
US Probation Officer	9
Institution Placement Officer	45
Inmate	283
Other	<u>45</u>
TOTAL	602

The resources used to find employment were significantly related to the wage level of the job obtained. Employment found through the institutional placement officer payed a median of \$62.00 per week; jobs obtained by friends and former employers payed a median of \$57.00; placements by U. S. Probation Officers were third, with a median of \$55.00 a week and jobs found through the aid of the inmates family had a median of \$49.00. <sup>55/</sup>

#### Placement Programs

More than 100,000 persons leave federal and state prisons each year. The specialized personnel available to serve their placement needs are pitifully few. The Federal Bureau of Prisons employs 13 placement officers to provide assistance to releasees from 40 institutions. Given not only the large number of institutions, but also their geographical dispersion, very little actual service is available to the offender.

The New York State Correctional System has a similar employment placement service with similar limitations. The Board of Parole Employment Service has 12 employment placement officers to serve 1600 parolees a year. In addition to first-time placement, officers located in the five major cities of the state, attempt to find better jobs for parolees who are underemployed. In other state systems, parole and probation officers must find and verify employment, a task for which their high case loads allow little time.

#### Role of the U. S. Employment Service

The ex-offender may, of course, avail himself of placement help from the local office of the public employment service just as any other citizen. Unfortunately, the relatively small role that the service plays in placement makes it a poor advocate for a client needing active intervention. The U. S. E. S. has not singled out the ex-offender as a "special worker group"

on a national basis, although special cooperative arrangements exist in some states. In New York, for example, the Employment Service has had an agreement with the State Department of Corrections since 1956 for the training of employment service staff and the provision of special service to offenders.

There are no comprehensive data on such special services, but we do know that offenders and delinquents become involved in other efforts of the U.S.E.S. to provide placement. The Youth Opportunity Centers of the U.S.E.S., numbering 132 in May 1966, and projected to 175 in the near future, were established to deal with the high unemployment rates of the 16-22 age group. Reports on selected programs make it clear that their clientele includes youth in trouble. In Minneapolis, for example, more than 20 percent of the first 4000 applicants "had been involved with the authorities." <sup>56/</sup>

The singling out of special groups like youth has been criticized as tending to fragment service. Actually, centralized and decentralized arrangements have advantages and disadvantages which can more appropriately be weighed by the service itself. For our purposes, it is important to point out certain prior needs. The quality and extent of help available will be limited under any administrative arrangement until the employment service approaches the status of a central labor exchange. An important aspect of this transformation is the provision of better labor market information to a variety of interested parties, including correction personnel responsible for placement.

Richard Lester cites studies to show that in 1964, offices in five metropolitan areas in New York State had the following distribution of staff time: 81 percent on job placement; 12 percent on counseling of workers; 4 percent on community development and related activities. Lester and other authorities, like Leonard P. Adams, feel that the employment service has a greater opportunity to be recognized as a manpower center in providing information services than in respect to any of its other functions. <sup>57/</sup> Improvements in this area

will be of great benefit to the hard-to-place and to those concerned with their actual placement.

#### The Effect of a Record

It is the function of corrections agencies to rehabilitate. However, the total legal-correctional continuum presents serious inconsistencies in this regard. Among the most pervasive and negative aspects of the correctional process is the persistence of the arrest and conviction record. There have been large-scale abuses of official arrest records, even in cases not resulting in conviction. Washington, D.C., employers, including the Federal government, have been the most notorious offenders in this regard. An employer may and usually does require an applicant to obtain a so-called "police clearance," that is, an official transcript of his arrest record, as a condition for employment. Even though the applicant may have no convictions, the mere fact of arrest is often enough to put him into the poor risk category of the employer. Fortunately, the U.S. Civil Service Commission has recently done away with this requirement, an action which hopefully will set an example for the private sector.

In the meantime, according to a study made by the New York Civil Liberties Union of private employment agency practice in the New York City area, 75 percent of the agencies sampled "...both ask job applicants about arrest records and, as a matter of regular and automatic procedure, refuse to refer job applicants with arrest records (regardless of whether they were followed by conviction or not)." <sup>58/</sup>

What may be a more serious abuse of the intent of the law concerns the sharing of records with respect to juvenile delinquents and youthful offenders. The proceeding against a delinquent is considered civil, not criminal; there is no "conviction," only an "adjudication" of delinquent status. The record of this adjudication is supposed to be private and confidential, since the purpose of the proceeding is rehabilitative rather than punitive. Neverthe-

less, the confidentiality of juvenile records (and youthful offender proceedings in those jurisdictions where they exist) are frequently violated, most often in questions concerning employment. The most direct violation is a question on an application form that asks whether the applicant was ever arrested or "taken into custody," the juvenile equivalent of arrest. But it is just as much a violation to ask the applicant to sign a "waiver" of confidentiality.

While private employers have successfully used this technique, the most gross users are the United States Army and Navy. Each day, several juvenile records are opened to the armed services on the "waiver" theory. Of course, the prospective enlistee or job applicant is hardly in a position to refuse to "waive" his statutory rights to a confidential record. 59/

#### Employer Attitudes

The released offender presumably has no rights of confidentiality with respect to his record. He is expected to lead a law abiding life, even though serving his sentence has not wiped the slate clean. Added to the offender's problems of lack of skill and inadequate access to employment information is the climate of distrust in the community. We do not know how pervasive this distrust is. Undoubtedly, men with highly developed skills meet less hostility, or at least more willingness on the part of employers to "take a chance." Still the experience of parole officers attests to the conflicting attitudes of employers.

Large firms may have formal exclusionary policies, but these may be modified by intervention on behalf of individuals. Smaller firms may be theoretically more flexible but actually more rigid in practice. The data we have on this issue are limited to small sample studies, reported here as evidence of how little we know rather than as definitive statements.

An Employment Resources Survey was conducted by the Minnesota Division of Adult Corrections in 1966 to determine employer attitudes. 60/

Of the 3,843 firms in the sample, 38 percent responded to the questionnaire. A review of completed questionnaires resulted in a final total of 983 (25%) valid returns.

The policy on hiring offenders is shown below:

Type of Restriction	Number of Firms	Percent
Formal written policy prohibiting hiring offenders in all positions.	19	2
Formal written policy prohibiting hiring offenders for certain specific positions only.	8	1
No formal written policy prohibiting hiring offenders, but a general reluctance to do so for all positions.	351	36
No formal policy, but informal restrictions prohibiting hiring offenders for certain specific positions only.	277	28
No restrictions, formal or informal against hiring offenders who otherwise have necessary job qualifications.	298	30
Other	1	
No Response	31	3
TOTAL	983	100

The survey found that construction, engineering-mining, and transportation-warehousing were the industries least restrictive in their hiring policies.

A similar though smaller study conducted for the Iowa Board of Parole found that in 10 Midwest cities, of the 95 firms surveyed, 77 percent had policies that permitted hiring the ex-offender. <sup>61/</sup>

An employer survey conducted in Louisiana showed a favorable response from 216 (51 percent) of the 432 companies that returned questionnaires. <sup>62/</sup> The firms with favorable attitudes toward hiring the ex-offender were in the textile, lumber, stone, metal, and transportation industries. The least favorable were in printing, furniture and machinery. Only 9 percent of the respondents indicated categorically that they would not consider hiring the ex-offender.

The juvenile delinquent seeking employment is doubly disadvantaged, since his age is perhaps as negative a factor as his "record." A survey of Omaha, Nebraska, firms employing 100 persons or more elicited responses from 25 of the 100 in the sample. Of these, two stated categorically that they did not hire juveniles, but most of the rest placed some kind of age limit (as high as 25 in two cases) on hiring. <sup>63/</sup> A survey in Alameda County, California, on the other hand, found all but two of 50 firms willing to hire both juvenile and adult offenders. <sup>64/</sup>

Conclusions from these limited studies would indicate that although there are negative attitudes toward the hiring of ex-offenders, these attitudes vary by locale and by industry. Employers, like other citizens, vary in their views toward ex-offenders, from strong disapproval to a sense of fairness.

Where negative attitudes do exist, they have been diminished by good communication between corrections personnel and the employer community. The United Prison Association of Massachusetts sponsored an employer-corrections conference which broke down the communication and information barrier and resulted in a more favorable employment climate. <sup>65/</sup> A comparable effort in the state of Washington had similar success. <sup>66/</sup>

#### Labor Union Attitudes

It is not possible to speak of an official union attitude toward ex-offenders because of the nature of union organization. Local labor unions are relatively autonomous bodies. The International provides guidelines on industry-labor relations, particularly with respect to wages and worker benefits, but does not otherwise make policy.

With respect to offenders, common cause among unions has been restricted to an antipathy to prison labor. Their alleged negative attitude toward released offenders, however, may be more apparent than real and could very well be a perception of correctional administrators rather than fact. Scarred by past battles with unions over prison labor, they are understandably reluctant to believe that unions could hold positive attitudes toward the released offender. In any case, while negative attitudes toward offenders may not be an issue, it is safe to say that indifference is.

In firms organized by industrial unions, employers control hiring, but in craft unions, membership is a prerequisite to employment. Yet we lack specific information not only on entry to the trade, but also on continuance in the trade of a former craftsman. Like others in society, an individual who is a member of a union may commit an offense and go to prison. Once confined, is he able to keep his membership current? He may, if he can afford to pay dues and pay fines for non-attendance of meetings. In some instances attendance may be a requirement for continued membership; some unions have procedures for issuing withdrawal cards if a member is inactive, but there are no general rules.

Continued membership in good standing provides a link to the community and a more ready entry into the labor market. Without such membership, or without a withdrawal to inactive status, the released offender must rejoin the union and pay initiation fees which are usually beyond his reach.

Where unions and corrections have communicated and made an effort to understand and solve the problem of employment of the offender, the results have been gratifying. California, New York, and Ohio, for example, have found unions to be sympathetic to the employment needs of ex-offenders and through the development of trade advisory boards and other liaison groups have improved the employment climate. <sup>67/</sup> The development of union-approved training programs in many correctional systems has been a useful method of developing positive union-corrections relations.

#### Government Agencies

Traditionally, local and federal government agencies have barred ex-offenders from employment. In doing so they have pursued conflicting goals and seriously undermined the effectiveness of the rehabilitative efforts of their own public agencies. On the one hand, corrections agencies have been concerned with rehabilitating, training and finding jobs for offenders. On the other hand, these same agencies, as well as other branches of the government, have generally refused to hire the offender. Sol Rubin points out:

Almost half the states in the United States do not bar public employment to persons with a criminal conviction. However, even in these jurisdictions the convicted person may be barred by administrative action. In most states where public employment of convicted persons is permitted, the number is extremely low. The administrative decision is generally made by the examining and certifying agency, rather than the employing department.

Recent developments indicate a reversal of this stance on the part of the Federal Government. The Federal Civil Service Commission on August 15, 1966, announced a new Federal employment policy regarding the hiring of former offenders.

The Commission and the employing agencies will accept applications from persons who have records of criminal convictions and will consider for employment those adjudged to be good risks.

For all positions in the Federal service, each case must be judged on its own individual merits. This means that the Commission and appointing officials will take into account such matters as the nature and seriousness of the offense, the circumstances under which it occurred, how long ago it occurred, whether or not it was an isolated or repeated incident, the age of the person at the time it was committed, social conditions which may have helped contribute to the offense, any evidence of rehabilitation, and the kind of position for which the person is applying. Each applicant must be treated as an individual in considering all the relevant issues that apply in this particular case in arriving at an employment decision.

In administering the merit system, the Commission's objective is to see that persons with records of criminal convictions who are attempting to obtain employment in the Federal service receive, on an individual basis, mature and sophisticated decisions taking into consideration the social and humane need for their rehabilitation as well as requirements at the positions for which they apply. <sup>69/</sup>

Attitudes toward offenders may be formalized into policies and procedures that become additional barriers to employment, impersonal mechanisms impervious to exceptions and special circumstances. Among these are bonding, licensing, and security clearance.

#### Bonding

Bonding is a form of insurance against theft by employees. The rationale for bonding is contained in a pamphlet distributed by The Surety Association of America: "People steal. They always have. They always will. There is, in truth, no absolute deterrent that operates against the human craving for something for nothing." <sup>70/</sup> Unhappily there is some evidence to support this statement. According to the Surety Association, employee dishonesty is estimated to cost employers \$500 million annually. <sup>71/</sup>

Although both bonding companies and employers are concerned with petty theft, their primary interest is in insurance against serious financial loss.

The theft of substantial amounts of company funds undoubtedly makes up a large part of total annual losses. For example, a random sample of bonding company files of 34 companies revealed thefts ranging from \$11,000 to \$185,000 and totaling \$1,790,039. <sup>72/</sup> The Surety Association gives examples of the thefts in amounts up to \$800,000 and \$900,000.

To insure against loss, various types of fidelity bond have evolved:

1. Individual Bond: This bond covers the individual employer regardless of his position or location.
2. Name Schedule Bond: Similar to the individual bond except that it covers more than one employee.
3. Position Schedule Bond: Bonds the position and does not require identification of the persons occupying the position.
4. Commercial Blanket Bond: This bond covers all officers and employees of a company collectively.

The Extent of Bonding. Bonding is not a widespread practice. Its use varies from one geographic area to another and from one industry to another.

The tables below show the distribution of bonding by geographic areas and by selected types of firms. <sup>73/</sup>

AREA	ALL FORMS OF BONDS, PERCENT OF FIRMS COVERED	BLANKET BONDS, PERCENT OF FIRMS COVERED
New England and Middle Atlantic	7	5
Southeast	10	7
Midwest	10	7
Far West	10	7
Southwest	16	11
Pacific Coast	10	7

TYPE OF BUSINESS	PERCENT COVERED
Hardware	6
Contractors	8
Appliance Stores	7
Grocers	3
Restaurants	4
Garages and Gas Stations	5
Clothing	5
Drug Stores	7

The size of firms utilizing bonding is not known, but the data reported above indicate that it is most prevalent in retail and service establishments. These are typically smaller units than in other sectors of the economy -- for example, manufacturing. Nevertheless, more people may be affected than appear to be at first glance. Judging by size of the losses reported above, firms that demand bonding are probably the largest units in their respective sectors and may account for considerable employment in a given labor market area. Furthermore, it is precisely in non-manufacturing that employment opportunities are growing, and the likelihood is great that the ex-offender will seek and obtain employment in these rather than in manufacturing where employment is expanding very little.

With respect to coverage, the results of an informal survey among personnel managers of various-sized firms in Los Angeles are instructive. Whereas the bonding companies estimated that only 15 percent of all employers in the area were involved, the personnel managers in financial, real estate, and insurance reported that 97 percent of their firms used fidelity bonding. For manufacturing firms, the percentage was 51; and for all other, 63. Those using bonding were overwhelmingly using blanket bonding. <sup>74/</sup>

In investigating an individual for a bond, inquiries are made concerning his behavior patterns, habits, traits, community standing, and financial status. On the basis of past stability and good reputation, an offender would have difficulty meeting bonding requirements.

As in other areas of concern, there is some disagreement as to how serious this problem really is. Letters received from twelve correctional administrators agreed that bonding is a problem for the released offender, particularly in clerical, sales, and commercial occupations. One respondent wrote: "The steadily growing practice of covering all employees under blanket bond has serious implications for personnel with criminal records and poses a new problem for the unskilled and service workers." <sup>75/</sup> And James J. McFadden, former New York City Labor Commissioner stated that a training

program which graduated 550 men with records had great difficulty in finding employment for them because of denial of bond. <sup>76/</sup>

On the other hand, bonding companies vary in their practices and in their method of conducting investigations. Some have found the cost of investigating each individual to be too high, and there are probably a number of men with records who are actually included in blanket bonding. When this happens, of course, it is not because the offender is considered a good risk, but simply that on a cost-benefit basis, the likelihood of loss attributable to a single individual is not as great as the cost of screening him out in advance.

Some bonding companies actually do investigate each employee, but even here there is leeway for actual or potential bargaining between the employer and the insurer. If the employer buys a good deal of other insurance from the same company, the insurer may very well make adjustments in policy with respect to individuals covered.

While many employers probably use bonding requirements as a convenient excuse to turn away applicants with records, perhaps the more serious impediment is the assumption on the part of both the employer and the offender that bonding is prohibited for individuals with criminal records.

New programs to provide bonding will eventually produce data on the extent of the problem as well as furnishing a needed service in the rehabilitation of offenders. Under the Manpower Development and Training Act, the U. S. Labor Department has funded a bonding demonstration project under contract with the United Bonding Insurance Company that will provide bonding for 1,700 individuals. The "slots" are distributed among four cities (New York, Washington, Chicago and Los Angeles) and six special manpower projects in these and other cities.

Assistance will be provided to persons who seek employment through the public employment office and trainees who are enrolled in projects supported by Federal funds. The individuals must be qualified for the job, and the position

must offer full-time steady work with adequate working conditions and wages and carry a reasonable expectation of permanance.

Where the employer feels the individual should be bonded, bond will be provided by the program if it is felt that irresponsible or dishonest conduct may materially damage the employer. The maximum amount of bond will be \$5,000 for one year. It is anticipated however that the average bond will be in the amount of \$2,500. Similar programs are being funded by the Department of Health, Education and Welfare, Office of Juvenile Delinquency and Youth Department. An interesting variation is offender participation in the development and operation of the program. Persons bonded will become members of the corporation, Trustworthy Incorporated, and will participate in recruiting and screening prospective candidates for bonding.

#### Licensing

Regulatory and licensing agencies have legislative mandates empowering them to grant or deny any individual the opportunity to utilize his skill and training. The rationale underlying this practice is the protection of the public through the establishment of standards, but there is a need to determine at what point this principle is overstepped by the addition of criteria which have no relevance to competence. The dysfunctional aspects of licensing practices require review since they bear on correctional efforts and ultimately on the public welfare.

The effects of licensing restrictions on offender employment cannot be assessed in terms of numbers of persons. However, the large number of occupations requiring licensing would indicate that the barriers created are substantial. A 1950 survey by Spector for the Council of State Governments found that entry to the practice of over 75 different professions, skills, trades and occupations was regulated in most states. <sup>77/</sup> New York State alone requires licensing for over 200 occupations and business activities. <sup>78/</sup> The list includes occupations that are obviously licensed for purposes of revenue

only, such as garbage feeders, farmers, boxing and wrestling doormen, embalmers, librarians, billiard room operators, plumage dealers for fly tying, taxidermists, and steamship ticket agents. Whatever the purpose of the licensing, the inclusion of the phrase, "applicant must be of good moral character" or "no record of convictions" is the stumbling block in many licensing applications. California, for example, makes conviction of any felony or any offense involving moral turpitude grounds for disciplinary action in approximately 40 occupations and professions. <sup>79/</sup> If an individual's license can be revoked for such reasons, it is obvious that a new applicant will not receive favorable consideration.

In New York an employer selling liquor cannot knowingly hire a person who has ever been convicted of a felony or of certain misdemeanors unless the employee has an executive pardon or written approval of the State Liquor Authority. <sup>80/</sup> In fact, the offender trained as a cook cannot be employed in any type of establishment selling liquor, no matter what the size of its liquor trade and regardless of how far removed from the liquor activity he may be. <sup>81/</sup>

According to Hannum, practically all other states do not make such restrictions, but they do hold the liquor licensee responsible for the acts of his employees. Washington, D. C., requires a 10-year crime-free record for liquor license consideration. Ex-offenders may work at any task other than handling alcoholic beverages.

On the other hand, Washington, D. C. requires a three-year crime-free record for cab drivers, while Baltimore will rarely even consider an ex-offender for such a license. The state of Minnesota issues chauffer's licenses, but granting of taxicab licenses depends on local ordinance. In St. Paul, for example, the applicant is not eligible if he has been convicted of a felony within five years of his application.

The general requirement that the applicant be of good moral character can lead to capricious negative determinations. The obstacles faced by prison-trained barbers in this regard are so pervasive as to be a classic example of exclusionary practices and illogical application of the principles of licensing. It is difficult to discover what relevance good moral character has to good barbering, or for that matter to the practice of the cosmetologist, dental hygienist, dental technician, or occupational therapist, where licensing requirements generally include "good moral character."

Significantly, occupational groups sponsored most regulatory legislation, and it is usually these groups that are given certain powers, to limit access to membership, set standards, and administer discipline for breach of those standards. <sup>82/</sup> To the extent that these groups concern themselves with establishing standards of competence for their members, they are performing a necessary public service. When they place restrictions on membership by the establishment of standards irrelevant to competence, their motives can be questioned.

Licensing groups too often are concerned with raising the status of their occupations and with preventing competition. <sup>83/</sup> When a licensing group is confronted with the question of whether or not to admit to its membership a person with a criminal record the primary concern is the effect on the status of the group. Competence of the applicant does not outweigh his criminal record. The fact that he is no more likely to harm the public than any other person is given less recognition than the harm he might do to the status of the group.

Licensing is a prerogative of state government, but the granting to administrative boards of authority to license occupations based on criteria other than competence, and particularly those criteria which cannot be demonstrated to be a potential source of danger to the public, raises serious questions. There are signs of increasing awareness of the importance of the individual's right to pursue his occupation <sup>84/</sup> and it may be that legislation in this area

will receive more substantive review than it has in the past. While deprivation of employment rights has not been considered a penalty calling for the procedural protections of a criminal trial, there is growing recognition that some sort of procedural fairness is required. <sup>85/</sup>

As in other areas the training programs of correctional agencies may be frustrated by restrictions emanating from another administrative branch of the same level of government. The protection of the public welfare is served not only by the establishment of standards by licensing agencies, but also by the rehabilitative efforts of correctional agencies. It is doubtful that the public welfare is rationally served when the restrictive practice of licensing agencies vitiate the efforts of correctional programs.

#### Security Clearance

Security clearance procedures in defense industries constitute another barrier to the employment of offenders, although they are by no means the only group affected. The very existence of the procedure, no matter how fairly administered, is a deterrent to seeking employment in affected industries or plants. An individual cannot apply for security clearance on his own initiative; he must first be employed. Nor can an employer deny employment by making a security clearance a necessary precondition of employment. <sup>86/</sup> Furthermore, since security clearance is not necessarily plant-wide, an employee not approved need not be dismissed; he may be reassigned to work outside the security area.

The authorization and review process is very complex and designed to provide safeguards for the individual. Of the 21 criteria upon which access determination is made, three apply to offenders:

14. Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.
16. Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addition, or sexual perversion.

17. Acts of reckless, irresponsible or wanton nature which indicate such poor judgment and instability as to suggest that the individual might disclose classified information to unauthorized persons or otherwise assist such persons, whether deliberately or inadvertently, in activities inimical to the national interest. <sup>87/</sup>

A person with a criminal record would not have any probability of receiving security clearance if the criteria above were rigorously applied. In fact, however, he has an opportunity to present evidence in his own behalf which can substantially alter the outcome. In making a final determination where criminal conduct is involved, the nature of the offense, its degree of seriousness and when it occurred are factors taken into consideration. The following statistical report furnished by the Office of Industrial Personnel Access Authorization Review (OIPAAR) reflects the nature of the process. <sup>88/</sup>

In the 18 month period from January 1, 1965 through June 30, 1966, a criminal condition existed for 103 cases, or 13.6%, out of the 760 cases completed by OIPAAR.

Of the 103, access was authorized for 51 cases (49.5%), 42 (82.4%) by the Screening Board and 9 (17.6%) by the Central Board. The remaining 52 cases were closed out as follows: 10 cases (9.7%) by denial of access authorization by the Central Board; 20 cases (19.4%) by "default"; 15 cases (14.6%) in which the applicant terminated employment; and 7 cases (6.8%) were closed out for various other administrative reasons.

On the 51 cases where access was authorized, 14 (27.4%) were authorized access at the CONFIDENTIAL level; 34 (66.7%) at the SECRET level; and 3 cases (5.9%) at the TOP SECRET level.

In analyzing those cases where access was denied by the Central Board and those cases closed out by "default", it was found that the majority of these cases covered serious arrest records and convictions, as opposed to those of a less serious nature of criminal conduct.

Included in the category of serious arrest records are charges and convictions involving larceny, assault with deadly weapon, carrying a concealed weapon, second degree murder charge, the mailing and possession of obscene material, malicious injury, violation of probation, bigamy, movement of narcotics and the like.

Speeding violations, arrests due to intoxication, breach of peace, operating a car without a permit, gambling, etc., and if not too often charged against the applicant, are considered as falling in the less serious category.

In those cases where the applicant terminated employment, both serious and less serious arrest records and convictions were noted.

The type of final action on Criminal Conduct cases as compared with the total 760 cases completed during the eighteen-month period under review follows:

Type of Final Action	Criminal Conduct Cases		Total Cases Completed	
	No.	%	No.	%
<u>TOTAL</u>	<u>103</u>	<u>100.0</u>	<u>760</u>	<u>100.0</u>
Access Authorized	51	49.0	374	49.3
Access Denied-C/B	10	9.7	98	12.9
No Reply to SOR *	20	19.4	144	18.9
Closed Out for Other Reasons	22	21.4	144	18.9

\* Statement of reasons

### A Community Focus for Programs

The community focus for treatment that has been implied in this report is not confined to the correctional field. Much of the legislation and programming in social welfare has been moving away from purely institutional settings and into the neighborhood. The Mental Health Act, for example, encourages the construction and staffing of community, rather than residential, centers. The anti-poverty legislation is largely concerned with providing services to people where they are. Many programs are directed toward what are loosely described as disadvantaged groups in the population. It should be clear that offenders, and delinquents are, by and large, part of this population. Individuals who have been convicted or "adjudicated" differ from others of the poor largely in having the extra burden of their "record." For the most part, they are otherwise well within the same range of low income and adverse prospects.

Antipoverty programs are, by the very nature of their target populations, already dealing with a large number of offenders. Unfortunately, we do not know the number of individuals with criminal records being served by various programs, either in proportion to their numbers in the community or in proportion to those served by the programs. Here and there, however, we see references to the added difficulty that the participation of offenders presents to program sponsors. <sup>89/</sup>

Under the provisions of Federally-financed programs, special projects for various categories of offenders are undertaken from time to time. For example, the Office of Manpower Policy, Evaluation and Research (OMPER) of the U. S. Department of Labor recently funded the establishment of a Parole Employment Evaluation Center in New York City under the auspices of the New York State Division of Parole. The Center will provide intensive and continuing vocational counseling and job placement services to parolees. Existing community services and facilities will be utilized, and special provisions for bonding may be made where necessary.

Evaluation of such experiments should provide some data as to effectiveness; unfortunately, however, it will not provide a way to compare this program with those that already include offenders. Nor can we look forward to any large number of special programs. In fact, the proliferation of such special efforts on behalf of offenders alone would probably not constitute the best allocation of program resources. Given that offenders are more like their neighbors in deprived areas than they are different, they should be included in existing programs with whatever alterations are necessary to care for their extra requirements for intervention.

It is beyond the scope of this paper to describe in all their detail the programs that do or should include offenders, but a brief mention of the major efforts in the field should serve to summarize available resources. It should be kept in mind, however, that no community program can overcome all of the adverse effects of institutionalization; a precondition of successful community rehabilitation is improvement in institutional programming and treatment.

Apart from the experimental and demonstration projects, regular programs under the Manpower Development and Training Act have had difficulty in reaching the most deprived sectors in the population. MDTA offers training for specific occupations; insofar as these are identifiable occupations with skills that are transferable from one employer to another, the training required to perform them demands levels of preparation and competence usually absent among disadvantaged citizens.

The on-the-job training program is inherently more promising because the jobs are more likely to be unique to the firm, narrower in content, and more easily learned by those at the bottom of the employment queue. The biggest hazard here is employer resistance, but the work-release program has shown that this too may be overcome. At a manufacturing plant in Danbury, Connecticut, for example, the personnel manager admitted that "... we had to think about it before hiring them. After some thought we decided we weren't taking any risk at all." <sup>90/</sup>

MDTA has been making serious efforts to expand its service to the poorly prepared, but at present it is clearly a limited resource for serving offenders. Theoretically, the programs of the Office of Economic Opportunity should offer greater scope. The Job Corps, however, has remained a relatively small effort, and although it has accepted young men with a record of minor offenses, persons with records of serious offenses against persons or property are not eligible. The Neighborhood Youth Corps is designed to give in-school and out-of-school youth an opportunity to earn income and gain work experience. While young people with delinquent backgrounds are eligible, participation for those who are out of school is limited to six months unless the individual returns to school. The program is a useful resource, however, as an intermediate placement for those young people who need a period of regular work experience to prepare them for the labor market.

The Community Action Programs of OEO provide a more varied resource, since many of them provide educational, training, placement and counseling help. While offenders are not excluded from participation, there has been some uncertainty as to the effects of the OEO directive on employment of such persons in the operation of programs.

"In the case of professional, fiscal, and managerial personnel, recent conviction of a serious crime shall be considered strong evidence of lack of fitness for the job. Before a grantee or delegate agency employs in any such capacity a person who has been convicted of a serious crime, its governing body will conduct an investigation in accordance with fair standards and procedures and, if it finds that the prior conviction does not disqualify the person for the proposed position, shall promptly provide a written statement of its reasons to the appropriate OEO Regional Office." <sup>91/</sup>

This directive should give opportunity for employment of offenders on levels of lesser responsibility. Since the exclusion is not absolute, it is theoretically possible for competence to be rewarded by promotion at some time in the future. Nevertheless, the required screening makes the possibility of employment of offenders less likely.

The programs of the Office of Juvenile Delinquency and Youth Development were among the first community efforts to attempt comprehensive coordinated service, in this case to young people. Their success at delinquency prevention is difficult to measure, largely because human behavior is not easily reduced to a series of simple propositions. The large-scale programs begun under the auspices of this office have been jointly funded through experimental funds available under MDTA. Although individual programs are large, their chief function has been to provide demonstration models, rather than to regularize the rehabilitation of the delinquent upon his return to the community or while he is under the supervision of the juvenile court. These programs and their effects are described elsewhere in the reports to the Commission.

One relatively new program resource has come into being through the 1965 amendments to the Vocational Rehabilitation Act. By previous definition, the handicapped were defined as persons with physical and mental conditions that created obstacles to employment. The amendments revised this definition in such a way as to cover offenders by interpreting physical and mental to include: "...behavioral disorders characterized by deviant social behavior or impaired ability to carry out normal relationships with family and community which may result from vocational educational, cultural, social, environmental or other factors." <sup>92/</sup>

These provisions have already been implemented by the establishment of an eight-state demonstration program for federal offenders. The University of Washington is coordinating this project in cooperation with the Federal Bureau of Prisons, the U.S. Federal Probation Division and the U.S. Parole Board. Vocational Rehabilitation counselors are providing an array of services to supplement the traditional supervision of probation and parole officers.

This kind of effort has great promise, particularly as a means of obviating fragmentation of service. In this respect, the vocational rehabilitation model is considered by many the most viable plan for delivery of service

yet developed. It represents the bridging mechanism so badly needed for maximum effectiveness in the vocational rehabilitation of offenders. The development of work release and the extension of the halfway-house concept are important prior steps; from these points, offenders can be directed to community programs where their needs can be served at the same time as the needs of other disadvantaged citizens.

Apart from the special efforts required to remove the legal, quasi-legal and attitudinal barriers to the employment of offenders, the residual problems faced by service programs are much the same for both offenders and non-offenders. As long as unemployment, underemployment, and marginal employment exist, individuals in these statuses are going to come from the most deprived parts of the population. We too often forget that even though there are job vacancies at any given moment, many openings are in jobs at the margins of the society with respect to income, security, and life chances generally. It has been estimated, for example, that about 30 percent of the American labor force works in unstructured labor markets -- that is to say, in fields or for companies where holding the job is not a certainty or where the opportunities for advancement simply do not exist.<sup>93/</sup> At one end of the spectrum of this unstructured market is the migratory agricultural worker; at the other is the self-employed small businessman on the verge of bankruptcy. Different as their options may be, they share an economic uncertainty which is largely absent from the lives of workers in more stable, structured employments.

The groups from which the offender is most likely to come are so situated that they fail to meet established criteria for employment in decent-paying, steady jobs, as these have been defined by the society. While any given individual may have the opportunity to improve his status through taking advantage of the offers of guided mobility implicit in our public and private programs, so far the impact has been small. Glaser's finding that the jobs of offenders after their release are little different than they were before -- that is, low-paying and marginal --<sup>94/</sup> symbolizes how little impact guided mobility pro-

grams are likely to have in the absence of further restructuring of work opportunity.

Actually, work has been regularized quite rapidly in the United States. If one adopts an historical perspective, it is easy to see that the conditions of work and its rewards are ahead of most other countries in the world. These differences are due largely to technological advance and to the existence of a very high national income. Unfortunately, recent changes, while improving the lot of the American population in general, have not resulted in any new redistribution of income. That is to say, since World War II the relative shares of the various income groups has not changed, even though each group is better off than before.

In any case, the search for new ways to restructure work has gone on. With the impetus provided by the lowering of the unemployment rate to about 4 percent, it is now more widely recognized that stringent job requirements are often unrealistic and that the potential range of individuals who can fill many positions is wider than many were willing to admit when unemployment was above 6 percent and the prospective employer had more choice. Along with this realization has come some attempt to reorganize the content of jobs to fit the workers available. The lead in this respect has been taken by the federal civil service which instituted a program of job redesign in 1966.<sup>95/</sup>

Another source of employment expansion has been suggested through the employment of so-called nonprofessionals.<sup>96/</sup> This notion actually has two distinct roots. First of all, there is recognition of the fact that professionals are often overburdened with routine tasks for which they are overtrained. The idea of giving them nonprofessional aides to free them for the more demanding aspects of their work is related to proposals for job redesign already referred to. Secondly, there has been a good deal of interest expressed in the idea that nonprofessionals, particularly those recruited from among the poor, have certain attributes not otherwise available in the delivery of human services. Thus, many experiments in the use of ex-offenders in non-professional helping

roles have been undertaken, both within institutions and in the community. This trend, while promising, has a good many difficulties standing in the way of acceptance and success. The chief of these is in the provisions of graded advancement, up to professional certification for some, but at least above the entry level in wages and responsibility for the bulk of the others. This is not easy to achieve in a society where certification of various kinds is growing and where job requirements tend to be more, rather than less, structured. <sup>97/</sup>

There is, however, some general recognition in the United States today that the provision of a menial job at menial wages is unlikely to motivate anyone to a life style more harmonious with the middle-class, consumption-oriented views of the majority. It takes a certain amount of income to live an orderly life, perhaps even to want to live an orderly life. We live in a society where work is valued for the consumption it makes possible rather than as a value in itself. In this respect, Americans are more alike than different. It is not at all a moral question, but rather a question of prevailing styles in a market economy.

For the ex-offender, choices are few. For those who are good prospects for guided mobility, we need a concerted attack on the existing barriers to employment. Furthermore, we need to expend far more effort in helping the offender make connections with workplaces that offer a better future and in negotiating the many systems he has to cope with in making these connections. More than any other single factor, his perception that there is a viable future as well as a bearable present can be a motivating force in his reintegration. For these opportunities to be present on a large enough scale requires rethinking of the way in which work is now structured, not only for the benefit of the ex-offender but also for the benefit of the population group from which he comes.

### III Recommendations

1. Given a complex society and the weak ties between the offender and the community, the connection between the individual and the possibility of employment is at least as critical as his personal attributes. It follows

that to establish appropriate connections, the offender requires that someone or some agency negotiate on his behalf. In this effort, many groups have a role.

- a. Employers. Offenders must become an object of interest to the employer, either because of legal obligation or because of a sense of responsibility. To this end, the Commission should consider the possibility of making this a national issue with Presidential sanction, using perhaps the model of Plans for Progress. Accompanying such an effort on the national level, there would be need for a coordinated local effort in which citizen organizations and correctional agencies would mount campaigns on behalf of a second, or even a third chance for the ex-offender.
  - b. Unions. While unions should play a role in the community effort described above, negotiations with union locals should also be carried out on behalf of individual offenders who seek union membership or reinstatement, or for whom this membership is vital for employability.
  - c. Public Employment Service. Better use should be made of the facilities of the employment service on behalf of the offender. It should be possible to work out agreements between correctional agencies and the ES that would permit correctional placement officers to work out of the ES office, thus taking advantage of its services and its access to labor market information, while preserving the initiative of the correctional officer to enter into negotiations on behalf of his client. The question of specialized correctional personnel is a function of the size of the jurisdiction; where caseloads are large, a placement specialist might be able to take part of the burden from other officers.
2. Federal hiring of offenders indicates an underlying confidence in the rehabilitative process and sets an example for state and local governments. At all levels of government, provision for the hiring of offenders should be pursued.
  3. Determined efforts should be made to protect the confidentiality of records. Since juvenile, youthful offender and wayward minor proceedings are non-

criminal and confidential, public and private employees should be prohibited by law from questioning about any arrests, apprehensions or detentions which led to such proceedings. The use of "waivers," which are in fact, coerced instruments, can be obviated by administrative fiat, since the agency holding the records has no legal right to make them available.

4. It seems reasonable that after a period of five years of crime-free behavior in the community, an offender should be relieved of the disabilities of conviction. After this period of time, he should not be required to disclose his past convictions, nor should such information be provided by public agencies.
5. If the new government programs for bonding ex-offenders demonstrate that their base expectancy rates are not significantly different from the non-offender population, commercial bonding companies should be encouraged to provide coverage on the same basis. If this should prove difficult, provisions for bonding ex-offenders should be continued under public auspices.
6. a. State legislatures should review licensing practices with a view toward stating explicitly the relevance of particular aspects of moral character to fitness. Where convictions are the basis of exclusion, those convictions pertinent to the occupation should be specified.  
b. Licensing boards should be required to accept evidence of rehabilitation, either in terms of a specified reasonable number of years of crime-free behavior, or on the basis of reports submitted by correctional agencies.  
c. A central board of appeal should be established to review cases where applicants have been rejected for reasons other than incompetence.

#### FOOTNOTES

1. See, for example, U. S. Department of Labor, Office of Manpower, Automation and Training, "Graduates of the Norfolk Project One Year Later," Manpower Report No. 5, October 1965.
2. U. S. Department of Labor, Manpower Report of the President, 1966, Tables A-5 and A-6, pp. 158-159.
3. Federal Bureau of Prisons, Statistical Tables, Fiscal Year 1965, p. 9.
4. Manpower Report of the President, op. cit., Table A-6.
5. Daniel Glaser, The Effectiveness of a Prison and Parole System, pp. 260-261.
6. National Commission on Technology, Automation and Economic Progress, Technology and the American Economy, 1966, U. S. Government Printing Office, p. 23.
7. Cited in Glaser, op. cit., p. 332.
8. Technology and the American Economy, op. cit., p. 23.
9. A. J. Jaffe, "Education and Automation," Demography, 3 ( No. 1, 1966), pp. 35-46. See also S. A. Fine, The Nature of Automated Jobs and Their Educational and Training Requirements. McLean, Va.: Human Sciences Research, Inc., 1964; and R. S. Eckaus, "Economic Criteria for Education and Training," Review of Economics and Statistics, XLVI (May 1964), pp. 181-190.
10. The American Correctional Association, Manual of Correctional Standards, 1956, p. 278.
11. Negely K. Teeters, Deliberations of the International Penitentiary Congress, Philadelphia: Temple University Book Store, 1949, p. 90.
12. Edwin H. Sutherland and Donald R. Cressy, Principles of Criminology, 6th Edition, New York: T. B. Lippincott, 1960, p. 525.
13. A Manual of Correctional Standards, op. cit., p. 278.
14. The Attorney General's Survey of Release Procedures, Vol. V, 1940, U. S. Government Printing Office, p. 33.
15. Idem.

16. Florida Division of Corrections, Fourth Biennial Report, July 1, 1962 - June 30, 1964, p. 14.
17. "Made in Jail, "Wall Street Journal, June 29, 1966, p.1.
18. Idem.
19. Idem.
20. T. Wade Markley, "A Current Look at Prison Industry in the United States." Unpublished paper (1957), p. 3.
21. Technology and the American Economy, op. cit., p. 13.
22. Barnes and Teeters, op. cit., p. 426-427.
23. Communication from the Office of the Director of Education, Federal Bureau of Prisons, 1966.
24. U. S. Department of Labor, Office of Manpower, Automation and Training, Training Needs in Correctional Institutions, Manpower Research Bulletin No. 8, September 1965.
25. Communication from the Minnesota Department of Corrections, 7-27-66
26. P. E. Phenneger, "Meshing the Training and Production Gears in an Electronics Industry," Journal of Correctional Education, XVI (April 1964), pp. 16-18.
27. Idem.
28. Communication from K. C. Clapp, Acting Warden, U. S. Penitentiary, Atlanta, Georgia, June 24, 1966.
29. R. Miller, "Office Machine Repair Training Program," Journal of Correctional Education, XV (January 1963), pp. 17-18.
30. U. S. Department of Labor, 1966 Report of the Secretary of Labor on Manpower Research and Training under the MDTA, March 1966, pp. 95-96
31. Draper Correctional Center, Fact Sheets, May 4, 1966.
32. Department of Corrections, Youth and Adult Corrections Agency, State of California, Research Report No. 4., p. 2.
33. Joachim P. Seckel, "Employment and Employability among California Youth

33. Joachim P. Seckel, "Employment and Employability among California Youth Authority Wards: A Survey," California Youth and Adult Corrections Agency, Research Report No.30, August 1962. p.i.
34. California Department of the Youth Authority, Agency Task Force, "The Youth Authority Ward in the Department of Corrections," October 1964, p. 5.
36. Reis Hall, "A Study of Post-Release Experience of Federal Vocational Trainees," Federal Bureau of Prisons Report, July 1963. Appendix E
36. "Graduates of the Norfolk Project One Year Later," op. cit.
37. Stanley E. Grupp, "Work Release and the Misdemeanant," Federal Probation, Vol. No. (June 1965), pp. 6-12.
38. Ibid, p. 8.
39. "Wisconsin Huber Law-Day Parole and Employment of County Jail Inmates" 1964 Survey, State of Wisconsin, Department of Public Welfare, Division of Corrections, Madison, Wisconsin.
40. Allen Ashman, "Work Release in North Carolina", Popular Government, June 1964, Institute of Government, University of North Carolina, Chapel Hill p. 2.
41. Ibid., p. 2.
42. U. S. Department of Justice, Bureau of Prisons, "Preliminary Progress Report on use of P. L. 89-176, The Prisoner Rehabilitation Act of 1965" January 21, 1966.
43. Ashman, op. cit., p. 2.
44. "Wisconsin Huber Law" op. cit., Chart II.
45. Communication from L. Gengler, Federal Bureau of Prisons, Department, June 13, 1966.
46. U.S. Department of Justice, Bureau of Prisons, Preliminary Progress Report on use of P. L. 89-176, The Prisoner Rehabilitation Act of 1965" January 21, 1966.

47. Wisconsin Huber Law, op. cit.
48. Communication from L. Gengler, Federal Bureau of Prisons, February 14, 1967.
49. Public Law 89-176, 89th Congress, H. R. 6964 September 10, 1965.
50. U. S. Department of Labor, Report of the Secretary of Labor on Research and Training under the Manpower Development and Training Act of 1962, (1966) p. 54.
51. Ibid.
52. J. M. Stanton, "Delinquency Rates of Parolees and Types of Parole Programs To Which They Are Released," New York State Division of Parole, Unpublished study, 1963.
53. A study of federal releasees in 1962 showed that 30 percent had no funds and 70 percent a median of \$44 accumulated while in prison. U.S. Bureau of Prisons, Research and Statistics Branch, "The Financial and Employment Resources of Persons Released from Federal Institutions," Jan. 1962.
54. Stanton, op. cit.
55. Ibid.
56. Harry Kranz, The Youth Opportunity Centers of the Public Employment Service. New York: New York University Center for the Study of Unemployed Youth, 1966.
57. Richard A. Lester, Manpower Planning in a Free Society. Princeton: Princeton University Press, 1966, pp. 46-47, p. 54.
58. Edward V. Sparer, Employability and the Juvenile "Arrest" Record. New York: New York University Center for the Study of Unemployed Youth, 1966.
59. Ibid.
60. James J. Ryan, Robert L. Webb, and Nathan G. Mandel, "Offender Employment Resource Survey," Minnesota Department of Corrections, 1966.
61. Walter A. Lunden, "Jobs for Ex-Cons," Ames, Iowa: Iowa University of Science and Technology, 1965.
62. D. A. Dobbins and Bernard M. Bass, "The Louisiana Ex-Prisoner--Employment Opportunities." Division of Research, Department of Institutions, State of Louisiana. Research Report Number 4, 1956.
63. Labor Participating Committee of the United Community Services of Omaha, Nebraska. Letter and summary of questionnaire from W. O. Nelson, Labor Staff Representative.
64. Paul McCormick, "Job Finding for Court Wards." A Report to the Rosenberg Foundation from the Alameda County Probation Department, June 1965, Appendix I.
65. Bernard F. McSally, "Help Wanted": Parolees May Apply," American Journal of Corrections, 22 (March-April 1960) p. 14.
66. C. R. Bechtol, Melville Monheimer, J. E. Nelson, and P. J. Sevenich, "Responsibility of Business and Industry for Employing Offenders," Journal of the National Probation and Parole Association, 6 (April 1960), pp. 129-137.
67. Leo Perlis, "Labor's Position on the Employment of Offenders," Journal of the National Probation and Parole Association, 6 (April 1960), pp. 138-145.
68. Sol Rubin, The Law of Criminal Corrections. St. Paul, Minnesota: West Publishing Co., 1963, p. 628.
69. U. S. Civil Service Newsletter, August 15, 1966.
70. The Surety Association of America, "Safeguards Against Employee Dishonesty," 1961, p. 12.
71. Ibid., p. 1.
72. Ibid., p. 21.
73. The Surety Association of America, "Fidelity Bonds," 1961, p. 2.
74. Personal communication from Alfred N. Himelson, Director, Risk and Rehabilitation Project, Los Angeles, California, October 17, 1966.
75. Personal communication from Milton Burdman, Parole and Community Services Adult Corrections Agency, State of California, January 28, 1966.
76. "City Job-Bonding Service Urged to Aid Ex-Convicts," New York Times, Nov. 22, 1965.
77. Sidney Spector and William Fredrick, "A study of State Legislative Licensing the Practice of Professions and other Occupations", Council of State Governments, 1313 E. Sixtieth Street, Chicago, Illinois. June 1952 p. 1-8.

78. Hubert W. Houghton, "Licenses Required for Workers By the State of New York," Albany, New York: State Education Department, Bureau of Guidance, March 1960.
79. California Business and Professional Code, Sect. 2685(d), 276(F), 6576, 7211, 9(d), and: Stanford Law Review, 14 (1962), pp. 533-541.
80. Robert Hannum, "Employment Impediments for Offenders and Public Safety Regulations," Federal Probation (March 1963), p. 32.
81. Idem.
82. Barron, "Business and Professional Licensing: California, a Representative Example," Stanford Law Review, 18 (1966), p. 640.
83. Ibid., and Stanford Law Review, 14 (1962), pp. 533, 536-537.
84. Schware V. New Mexico, 353 U.S. 232, (1957); Konigsberg I, 353 U.S. 252 (1957)
85. Willner V. Committee on Character, 373 U.S. 96 Konigsberg V. State Bar, 366 U.S. 36 (1961).
86. Department of Defense, Industrial Security Manual for Safeguarding Classified Information. DOD 5220.22-m, 1 July 1966, Section III, No. 20f, p.52.
87. Department of Defense, Industrial Personnel Access Authorization Review Regulation, Number 5220.6, July 1960, p.12.
88. Department of Defense, Industrial Personnel Access Authorization Review, "Criminal Conduct Category, Jan. 1, 1965-June 30, 1966.
89. See, for example, U.S. Department of Labor, Office of Manpower, Automation and Training, "Graduates of the Norfolk Project One Year Later," Manpower Report No.5, October 1965.
90. New York Times, January 22, 1966.
91. Office of Economic Opportunity, "Congressional Presentation," March 1966, p.25.
92. Federal Register, Vol. 31, No. 9, Part II, January 14, 1966, p. 499.
93. O. W. Phelps, "A Structural Model of the U.S. Labor Market," Industrial and Labor Relations Review, 10 (April 1957), p. 409.
94. Glaser, op. cit., Chapter 14.
95. United States Civil Service Commission, Bulletin No. 300-9, "Redesign of Jobs To Improve Utilization of Employees and To Increase Opportunities for the Disadvantaged," March 2, 1966.
96. Arthur Pearl and Frank Riessman, New Careers for the Poor. New York: Free Press, 1965.
97. See, for example, Judith G. Benjamin, Marcia K. Freedman, and Edith F. Lynton, Pros and Cons: New Roles for Non-Professionals in Corrections. Washington: Government Printing Office, 1966.

**END**

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