

Federal Probation

The Evolution of Probation: Early Salaries,
Qualifications, and Hiring Practices *Charles Lindner*
Margaret R. Savarese

Focus for the Future: Accountability in
Sentencing *Thomas J. Quinn*

The Need for a New International-National Criminal
Justice Order *Manuel López-Rey*

Politically Appointed Administrators: An Empirical
Perspective *Salvatore Cerrato*

Nonintervention: The Myth of Doing No Harm *Lawrence F. Travis, III*
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Prison Option: Supervised Intensive
Probation Program *Freddie V. Smith*

Secure Jail: A Professionally Managed Corrections
Facility That Controls Its Population *Nicholas L. Demos*

Condition of Success: A Case Study in the Infiltration
of Organized Crime *Frederick T. Martens*

Sexual Aggression in Federal Prisons:
Prevalence and Employee Impact *Peter L. Nacci*
Thomas R. Kane

Probation That Worked For Us *David R. Busby*

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MARCH 1984

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This Issue in Brief

The Evolution of Probation: Early Salaries, Qualifications, and Hiring Practices.—Charles Lindner and Margaret R. Savarese review probation practices at the turn of the century and find that many concerns facing probation today, such as high caseloads and inadequate salaries, also existed in the past. The authors further explore early conditions of employment, including qualifications, compensation, and hiring practices. A 1910 civil service examination is included to allow the reader to test himself against the probation officer of the past.

Focus for the Future: Accountability in Sentencing.—Author Thomas J. Quinn argues for a new dialogue, replacing the “in” versus “out” decision with assignment to 1 of 10 “Accountability Levels.” In this broad range of increasingly restrictive options offenders would be adequately monitored at whatever level they are placed, with logical progression down the scale toward freedom over time and retrogression further up the scale for noncompliance. The private sector can be used to help fill the gaps in the middle levels and policy structured to offer decisionmakers the desired mix of offender slots in a jurisdiction.

The Need for a New International-National Criminal Justice Order.—Crime is increasing everywhere, particularly under dictatorial regimes, and in democratic countries the penal systems are becoming more and more unable to cope with it, asserts Manuel López-Rey. The abuse of power plays a primordial role in the growth of contemporary crime, the main reason being that the penal systems are still, in spite of frequent reforms, rooted in the 19th century. The author stresses the need for a new international-national criminal justice order.

Politically Appointed Administrators: An Empirical Perspective.—In the wake of prison riots, serious doubts about the effectiveness of the correctional system have been raised by professionals and concerned citizens alike, according to Salvatore Cer-

rato. His article presents the position that unqualified administrators, by virtue of institutional inexperience and lack of correctional expertise, have become an unstabilizing force within the correctional milieu.

CONTENTS

The Evolution of Probation: Early Salaries, Qualifications, and Hiring Practices	Charles Lindner Margaret R. Savarese	3
Focus for the Future: Accountability in Sentencing	Thomas J. Quinn	10
The Need for a New International-National Criminal Justice Order	Manuel López-Rey	19
Politically Appointed Administrators: An Empirical Perspective	Salvatore Cerrato	22
Radical Nonintervention: The Myth of Doing No Harm	Lawrence F. Travis, III Francis T. Cullen	29
Alabama Prison Option: Supervised Intensive Restitution Program	Freddie V. Smith	32
The Future Jail: A Professionally Managed Corrections Center That Controls Its Population	Nicholas L. Demos	35
The Illusion of Success: A Case Study in the Infiltration of Legitimate Business	Frederick T. Martens	40
Sex and Sexual Aggression in Federal Prisons: Inmate Involvement and Employee Impact	Peter L. Nacci Thomas R. Kane	46
A Combination That Worked for Us	David R. Busby	53
Departments:		
News of the Future		58
Looking at the Law		61
Reviews of Professional Periodicals		63
Your Bookshelf on Review		67
It Has Come to Our Attention		73

Radical Nonintervention: The Myth of Doing No Harm.—Authors Travis and Cullen offer three reasons why the call for liberals to withdraw from the policymaking process in the criminal justice system will cause more harm than an interventionist strategy: First, reform efforts have been one of the few humanizing forces in our correctional past. Second, nonintervention by progressives only serves to facilitate the get tough movement now sweeping the Nation. And third, nonintervention is a philosophy of despair, not of hope, and thus risks attenuating the will of practitioners to continue to do good in the face of daily obstacles.

Alabama Prison Option: Supervised Intensive Restitution Program.—Alabama Commissioner of Corrections Freddie V. Smith discusses an innovative restitution program which uses close face-to-face supervision, enforced curfews, required workloads in public service or contracted employment, offender family involvement, supervision fees, and other freedom restrictions. Incorporated provisions also require program officers to coordinate closely with law enforcement and judicial agencies.

The Future Jail: A Professionally Managed Corrections Center That Controls Its Population.—Antiquated methods of jail administration are no longer acceptable either to the criminal justice agencies they serve or the political officials responsible for their oversight. Nicholas Demos presents some basic principles for jail management, emphasizing a proactive role for social trial judges. He also summarizes the Washington State comprehensive strategy that transformed the jails of that State.

The Illusion of Success: A Case Study in the Infiltration of Legitimate Business.—Frederick

Martens examines and analyzes the systemic nature of organized crime with institutional structures within a lower socioeconomic community. Through the use of ethnographic collection and analysis techniques, the author delineates the structural arrangements between finance institutions, liquor wholesalers, vending companies and professionals (e.g., accountants and lawyers) and the "bar" or tavern. Employing a sophisticated pyramid scheme in which the tavern is the commodity, "unsuspecting" entrepreneurs are enlisted into this scam, only to be disillusioned by the ultimate death of their dream. The illusion of success is a classic case study in the convergence of organized crime with white-collar crime.

Sex and Sexual Aggression in Federal Prisons: Inmate Involvement and Employee Impact.—In the December 1983 issue of *Federal Probation*, Nacci and Kane focused on the incidence of homosexual activity and sexual aggression in Federal prisons. Analyses and discussions in the present report concern: profiles of inmates who have participated in consensual homosexual activity or have been targets of sex pressure; correctional officers' attitudes toward the protection of inmates, the prevention of homosexual activity, the danger of sexual assault in prisons, and job satisfaction; and factors that influence inmate participation in consensual homosexual activity.

A Combination That Worked for Us.—U.S. Probation Officer David R. Busby describes a drug after-care program which has proven successful in the Northern District of Alabama. The program combines intensive urine surveillance with intensive counseling, a wilderness experience (camping, rappelling, hiking), and a work detail experience.

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

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The Evolution of Probation

Early Salaries, Qualifications, and Hiring Practices*

BY CHARLES LINDNER AND MARGARET R. SAVARESE**

ON THOSE all too rare occasions, when we take a moment to pause and reflect upon the early days of probation, most of us tend to think, almost immediately, of John Augustus and his remarkable accomplishments in and around Boston during the mid-1800's. A few, perhaps a little more familiar with history, might even be aware of the work of some of Augustus' disciples such as John Murray Spear and "Uncle" Rufus Cook. But, for the majority, including those actually working in the field of probation, a very real historical void exists as to the growth and evolution of probation in the years that followed John Augustus and his immediate successors. Ironically, it is precisely these largely unexplored years around the turn of the century that may very well constitute the most important period in the historical development of probation for it was during this time that many of our current probation practices were shaped and formed. Moreover, while probation, at least, the informal, unofficial variety practiced by John Augustus came into existence during the mid-1800's, it was not until the turn of the century that the majority of states initiated legislation officially authorizing probation, moving, in effect, towards what would eventually become nationwide recognition and use of a revolutionary sentencing alternative.

It is our intention, in this article, to begin exploring this forgotten period by examining several aspects of the probation system as it existed around the turn of the century with particular emphasis on probation practices in New York State. The practices of the past are always interesting when contrasted with those of today, especially, when we realize, as will become readily apparent, that present-day probation is struggling with many of the very same problems that plagued the field back in its infancy. Hopefully, our increased knowledge of the past will enable us to appreciate and build on that past, contribute to our understanding of the present, and help us in planning more effectively for the future.

*This is the first in a series of four articles.

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The First Probation Officers

A number of early probation statutes, while clearly authorizing the appointment of probation officers, failed, at the very same time, to provide any appropriation for their salaries. The statute that brought the first juvenile court in this country into existence, in the city of Chicago, is a striking example of this. Officially entitled "An Act to Regulate the Treatment and Control of Neglected, Dependent, and Delinquent Children," this law was passed by the Illinois Legislature in April 1899 and went into effect as of July 1, 1899. Besides providing for a separate courtroom and prohibiting the detention of children under 12 in jails and police stations, this law also authorized the appointment of probation officers whose duty it would be to:

... make such investigations as may be required by the court; to be present in court in order to represent the interest of the child when the case is heard; to furnish the court such information and assistance as the judge may require, and to take charge of any child before and after trial as may be directed by the court.¹

Ironically, while the framers of this legislation envisioned probation officers as the social service arm of the court, crucial to the treatment of the children brought before it, absolutely no provision was made for the payment of any compensation for their services.

In February 1901, after the Chicago Juvenile Court had been in operation a full 18 months, Judge Richard S. Tuthill, who presided over the court, described the probation system as being "by far the most important feature of the Juvenile Court Law" and went on, as follows, to plead for financial assistance from the Chicago community:

As the law made no provision for such payment, help in this respect must come entirely from outside sources. If the settlements, clubs, churches, and charitable men and women of the city will pay the salaries of competent probation officers who will thus be enabled to devote their entire time to the work of the Juvenile Court, ... one more great difficulty standing in the way of the proper operation of the law will be overcome.²

Similarly, the first probation law in New York State, passed in 1901, directed criminal court judges

¹Tuthill, Richard S., "How The Juvenile Court Law is Working," *The Commons*, February 1901, p. 6.

²Ibid., p. 8.

in all cities of the state to appoint "a person or persons to perform the duties of probation officer" adding that such probation officers might be chosen from among private citizens, male or female, from clerks or assistants of the court making the appointments, or from the officers, deputies, assistants, or clerks of the district attorney's office in the county where the court making the appointment was held. In addition, any police officer, constable, or peace officer could also be appointed as a probation officer. The statute, however, clearly stipulated that "no probation officer appointed under the provisions of this section shall receive compensation for his services as such probation officer" but added that this did not prohibit any court clerk, assistant district attorney, or police officer who was appointed a probation officer from receiving his usual salary.² It was not until several years later that this situation was remedied when probation officers began being paid salaries out of public funds.

The failure to allocate public funds for the salaries of probation officers, which was fairly common at the time, was not merely the inadvertent result of an oversight or error. On the contrary, it was very deliberate and was, in fact, believed to be in the best interest of probation for a variety of reasons. Some framers of the early probation statutes were very much concerned about the ultimate cost to the public of their proposed legislation fearing that the laws authorizing the appointment of probation officers might never be passed at all if they were felt to be too costly. Thus, laws that authorized the appointment of probation officers but allocated no public funds for their salaries were regarded as an unfortunate but very necessary type of compromise.

Others involved in securing passage of the first probation laws felt that probation officers were social workers, first and foremost, and as such, would best perform their charitable acts out of the goodness of their hearts whereas to offer salaries would only attract a less altruistic type of individual. Finally, it was the concern of many that if probation officers were paid out of public funds, the appointments would become political plums to be dispensed as part of the patronage system. In reflecting on the failure of the 1901 New York Laws to provide for publicly salaried officers, Isabel Chapin Barrows, widow of Samuel J. Barrows, who had drafted the bill and who was

²New York Laws, 1901, chapter 372.

³Barrows, Isabel Chapin, *A Sunny Life: The Biography of Samuel June Barrows*. Boston: Little, Brown and Co., 1913, p. 167.

⁴New York State Probation Commission, 8th Annual Report for the Year of 1914, p. 35.

⁵Lathrop, Julia C., "The Development of the Probation System in a Large City," *Charities*, January 1905, p. 345.

largely responsible for its passage into law, wrote as follows:

No salary was affixed to the office at that time because it was believed there would be danger of political influence in the appointment of probation officers before they had proved their ability. In that respect the law was amended after it was demonstrated that probation officers must be men and women of special stamp and that they must have an adequate salary.⁴

The diversity of legislation among the various jurisdictions was reflected in highly dissimilar staffing patterns in the early years of probation. In states like Massachusetts, where publicly paid probation work was established as early as 1878, paid probation officers worked together with volunteers. In states like New York, pending the authorization of publicly salaried officers, volunteers and officers paid from private sources were the dispensers of probation services.

As a result of the instant popularity of probation as a sentencing alternative, as noted from the excessive caseloads almost immediately existent, it became apparent that no probation service could function in any meaningful way if staffed solely by volunteers. Thus, other categories of personnel were drafted to meet this need. Private agencies, their contributions now obscured by the pages of time, often assigned their professional agents to serve as probation officers while their salaries continued to be paid by the agency. In the New York City Court of General Sessions, for example, during the early years, probation work was handled by officers from Catholic, Protestant, and Jewish societies.⁵ In some instances, individuals contributed funds to private societies so as to support an agent's work as a probation officer. A primary example of this type of intense commitment towards the then just developing probation movement was the work of Mrs. J.M. Flower, a private citizen and president of the influential Chicago Women's Club, who contributed significantly to the establishment of the Chicago Juvenile Court. Greatly distressed by the absence of publicly paid probation officers, "... Mrs. Flower interested various persons who contributed the support of four or five officers for the first two years."⁶

Another category of early probation officers consisted of municipal workers who were detached from their normal work assignments so they could function as probation officers. Although the majority appear to have been police officers, depending upon the jurisdiction, they also included court officers and truant officers. The police appear to have been the category most often assigned to probation work, perhaps, because the surveillance function of probation work was viewed by some as being most compatible with police work. This practice of deploying police

officers as probation officers was used very early in the development of probation in this country and continued for quite a few years. Judge Richard S. Tuthill, who presided over the first juvenile court, wrote, in 1901, that, since the Juvenile Court Law set aside no additional public funds to pay civilian probation officers, the Honorable Carter H. Harrison, then mayor of Chicago, had "detailed a number of fatherly men from the police force of the city, who, in citizens' clothes, without baton, or arms or any other outward sign of authority," acted as probation officers.⁷ A decade later, in 1910, Flexner noted that of the 65 probation officers serving in Chicago, "Thirty are members of the police force in plain clothes, assigned to duty in the Juvenile Court under the direction of the chief probation officer." He further commented that this practice existed, although in lesser numbers, in a number of other cities.⁸

Looking back, the most striking characteristic of these early probation officers was, without any doubt, their tremendous dissimilarity to each other. Their selection as a probation officer was often an accident of history wholly dependent upon the legislation within a particular jurisdiction and there was great variation among them in terms of their educational and vocational preparation. Many were from the field of law enforcement whereas others were from a social work background. Some were paid from public funds, others from private sources, and many were volunteers. To some, probation was a career; to others, it was an opportunity to serve on a limited basis. Nevertheless, despite the great diversity of their motives, backgrounds, and orientations, it was this disparate group of pioneers who nurtured probation during its early, tentative years and, thereby, insured its survival.

Salaries Paid to Probation Officers

I said a year ago that it was a shame that people who were willing to devote their energy and their lives toward a special line of endeavor did not receive the pay of the common ordinary artisan; that they are not recognized in their own community as being of any special worth; that the man working on the scaffold on a building receives more per diem than most of the probation officers in the state.⁹

This statement, made by a probation officer, back in 1915, might very well have been made by one of

⁷Tuthill, *op. cit.*, p. 8.

⁸Flexner, Bernard, "The Juvenile Court as a Social Institution," *The Survey*, February 5, 1910, p. 615.

⁹New York State Probation Commission, 9th Annual Report for the Year of 1915, p. 342.

¹⁰Flexner, Bernard and Roger N. Baldwin, *Juvenile Courts and Probation*. New York: The Century Co., 1916, p. 96.

¹¹*Ibid.*, p. 97.

today's officers. For, as many probation officers are underpaid today, so, too, were many just as poorly paid in probation's earliest years. It would, therefore, be impossible to simply dismiss out of hand the bitterness so painfully evident in the above quotation or attribute it solely to the individual speaker's personal views and feelings. In fact, a review of the literature of the early days of probation clearly reveals the enormous dissatisfaction expressed by many over the inadequate salaries paid to probation officers, especially, in rural areas. Similarly, in the professional conferences of that time, one of the most frequently stressed themes was the need for improved compensation for probation officers as a prerequisite to the attraction and retention of qualified personnel.

Flexner and Baldwin, both leading figures in the early days of probation, noted, in 1914, that salaries of probation officers varied widely throughout the Nation. They recommended that the ideal salary should range from \$1,000 to \$1,500 for those employed in larger cities and from \$800 to \$1,200 for those in smaller cities and towns. In addition, they expressed a need for increments based on longevity and suggested that where a probation officer received a starting salary of \$1,000 per year, he should receive yearly increments of \$100 until he reached a maximum of \$1,400. As was true of others concerned with the salaries paid to probation officers, Flexner and Baldwin considered the inadequate compensation received by many officers to be a factor impairing probation's ability to attract highly qualified personnel. They stated:

In order to secure competent persons, the annual salary should be at least the amount paid a first-class high school teacher in the community. If superior persons are to be secured for the service, the compensation should be higher than that of the public school teacher—considerably higher—in view of the teacher's long summer vacation not enjoyed by the probation officer.¹⁰

To make matters worse, the inadequate salaries, in many instances, were even lower than they appeared at first glance since a common practice of the time was to deny reimbursement to probation officers for expenses incident to their employment. Flexner and Baldwin, in decrying the utter unfairness of this practice, noted that the average trolley car expenses incurred by an officer working in the city averaged \$10.00 per month, but for the rural-based officer who was compelled to travel longer distances and depend upon the railroad, the monthly cost was often as high as \$20.00. It was their recommendation that:

In practically all courts, probation officers are put to expense in carfare, transportation and the like. Such expenses should be met by appropriating an expense fund.¹¹

The inequity of this practice was also very much apparent to the New York State Probation Commission

which, unfortunately, was unable to act except through persuasion and influence. In 1912, however, the Commission went on record as follows:

In spite of the fact that the law expressly authorizes the payment of expenses of probation officers, it is still necessary in many jurisdictions for the probation officers to meet the expenses incurred by the performance of their official duties from their own pockets. Such expenses include car fare, telephone messages, telegrams, postage, stationery, note books, and in some instances, office furniture. Inquiry . . . in New York City indicated that they were paying out of their own pockets at the rate of more than \$300 per annum for expenses which should have been paid from city funds. This did not include emergency relief given to probationers and defendants in the form of meals, car fare, medicine, clothing, and so forth . . . It is earnestly hoped that for the good of the service, as well as for the sake of the probation officer (most of whom are paid small salaries), appropriations may be made whenever needed for the payment of the legitimate expenses of the probation officer.¹²

Apparently, one of the very few exceptions to the low salaries and lack of any reimbursement for expenses incident to employment was Nassau County on Long Island. The New York State Probation Commission's Annual Report for the year of 1919 noted that in Nassau County:

. . . the Board of Supervisors established the new position of County Probation Officer at a salary of \$2,500, the largest salary which has, as yet, been provided for a new position of this character. Ample traveling expense and the use of an automobile were also provided.¹³

Interestingly enough, history has repeated itself and the Nassau County probation officers of today continue to be among the highest paid in the State if not in the Nation.

The comparative excellence of the salary paid to the first probation officers in Nassau County can be seen more readily in contrast to the salaries that were then being paid to probation officers in the largest cities of the State. In New York City, for example, the minimum salary for probation officers was \$1,350 with a maximum, after several years, of \$1,860. In Buffalo, at the same time, probation officers received a minimum salary of \$1,200 with a maximum of \$1,800.¹⁴

By comparison, probation officers serving in rural areas suffered from totally inadequate pay scales. In fact, very often, they were paid on a strictly part-time basis. In the same year, 1919, for example, when the Nassau County probation officer's salary was \$2,500,

the probation officer in Suffolk County, the county bordering on Nassau, was receiving a salary of \$300 per year because the county refused to hire an officer on more than a part-time basis. The State Probation Commission, in this same year of 1919, announced that due to ". . . an active campaign in cooperation with the county judge, the probation officer, and others . . ." the Board of Supervisors of Suffolk County agreed to the request ". . . and the probation officer was given a substantial increase in salary and is now devoting his whole time to the work."¹⁵ In the same year, the Board of Supervisors of Chenango County appropriated \$700 for the salary of an individual who served both as county probation officer and humane society officer.¹⁶

Nor were these particular counties merely isolated examples of the shamefully low salaries paid to probation officers in rural areas. In 1912, 7 years earlier than the period cited above, the State Probation Commission reported that some one-third of the counties in the State had appointed probation officers on a part-time basis with a salary of approximately \$300 per year. In deploring this practice, the Commission stated that:

While about one-third of the counties have appointed such officers, the salaries paid are in most instances so small—often not more than \$300—that the officers can usually afford to give the probation work only a fraction of their time. Parsimony in this matter is poor economy. True economy, for each county as well as for the State, calls for the payment by the different counties of salaries adequate to command, whenever necessary, the full time service of competent officers. The benefits of probation should be extended to every part of the county.¹⁷

A great deal of credit must be given to the early members of the New York State Probation Commission, whose function was to provide oversight of local probation services. Scorning a narrow interpretation of their role, and choosing not to follow the path of political safety, they, instead, served as advocates of adequate salaries for probation officers. To those on the Commission, a definite correlation existed between the quality of probation services and the ability to attract and retain competent personnel. Accordingly, the Commission became a major force in the campaign for adequate salaries for those in the newly developing field of probation. The members of the Commission provided assistance, in this regard, to probation officers throughout the State including letter writing, political lobbying, media support, the provision of expert testimony, and other forms of concrete help. The attitude of the Commission is reflected in the following excerpt from their Seventh Annual Report for the year 1913:

Generally speaking, the devotion of the officers to their work is such that the salary received is by no means their only or even their first consideration. If this were not the case, we should not

¹²New York State Probation Commission, 6th Annual Report for the Year of 1911, p. 33-34.

¹³New York State Probation Commission, 13th Annual Report for the Year 1918, p. 40.

¹⁴Ibid., p. 20.

¹⁵Ibid., p. 42.

¹⁶Ibid., p. 39.

¹⁷New York State Probation Commission, 6th Annual Report for the Year of 1912, p. 30.

have the many men and women of high quality and ability who are now engaged in the probation work of this State.

The Commission does not wish to have it inferred, however, that there is not room for considerable improvement in some instances in the quality of those employed as well as in the number of officers provided and it believes that not only in justice to the officers now employed but to secure a higher grade of officers where needed, there is no greater necessity in the probation service of the State at this time than that the salaries paid be substantially increased . . . With hardly a single exception, the probation officers in the State are underpaid.¹⁸

If probation officers, as a general rule, were inadequately compensated during these early years, it was, certainly, not due to any lack of effort on the part of the State Probation Commission. Perhaps, as Flexner stated, the failure to appropriate adequate funds for probation services was due, instead, to the fact that:

Legislatures are slow to see the value of providing for payment of an adequate number of probation officers. The absence of anything like an intelligent public opinion in the country as to the real meaning of probation increases the difficulty.¹⁹

Nor did the picture dramatically change in the decades that followed even as probation became an increasingly important and accepted component of the criminal justice system. Cooley, writing in 1927 of his experiences as chief probation officer of the Court of General Sessions of New York City, expressed his concern over the inability to attract competent persons to the field of probation due to the unattractive pay scales. In what some might view as a very prophetic statement, Cooley warned that the theories of probation might very well fail due ". . . to the incompetency among its workers, inadequate finances, and general public disinterestedness." He explained further:

The average salary of the 125 probation officers serving in the Courts of New York State outside of Greater New York equals \$31.05 per week after an average service of eight years. In view of these facts, it is not to be wondered at that there are only a few courts in the United States that have definite standards regarding the educational background of the persons selected to serve as probation officers. Because of inadequate salaries paid men and women with desirable educational qualifications and with specialized training, they are entering other fields of social service.²⁰

Appointment of Early Probation Officers: Exempt vs. Competitive Status

The framers of the first probation statutes, as mentioned previously, had been very apprehensive about

¹⁸New York State Probation Commission, 7th Annual Report for the Year of 1913, p. 43.

¹⁹Flexner, Bernard, "The Juvenile Court as a Social Institution," op. cit., p. 614.

²⁰Cooley, Edwin C., *Probation and Delinquency: The Study and Treatment of the Individual Delinquent*. New York: Catholic Charities of the Archdiocese of New York, 1927, p. 27.

²¹New York State Probation Commission, 12th Annual Report for the Year of 1918, pp. 50-51.

appropriating public funds to pay for probation salaries fearing that to do so would result in the use of probation officer positions as political rewards and favors. As it was, their concern turned out to be very well justified for along with the advent of publicly paid probation officer positions came strenuous efforts to classify them as exempt positions rather than making appointments on the basis of competitive civil service examinations. This question of whether the position of probation officer should be subject to competitive examination or an exempt position became one of the earliest major conflicts in the development of probation and, indeed, the ultimate resolution of this issue may very well have shaped our current form of probation practice, at least, in most jurisdictions.

Most political leaders, for very obvious reasons, strongly favored classifying the position of probation officer in the exempt category as this represented a ready source and supply of jobs. Most members of the judiciary, almost all of whom had political ties, also wanted to see the position of probation officer made an exempt position. There were additional considerations for the judges, however, since placing probation in the competitive category would have also meant a loss of power in respect to personnel with whom they had to work very closely, on a daily basis, within the court setting. The judges argued that the judicial/probation officer role was unique, that it was comparable to that of a confidential assistant to the judge, and that it was a judicial rather than an executive function.

This conflict, while it remained unresolved, often led to embarrassing stalemates. At times, as a means of demonstrating their power, judges adamantly refused to appoint probation officers from competitive civil service lists and, instead, would simply leave the authorized positions unfilled. In most of these cases, the probation officer positions were filled by representatives or agents of private organizations or volunteers. A classic example of this occurred in the New York City Court of General Sessions where, for many years, the judges declined to appoint a probation officer from the existing list despite statutory authorization and the existence of appropriated funds. The New York State Probation Commission's Twelfth Annual Report for 1918 noted, in regard to the New York City Court of General Sessions, that:

An appropriation for 10 salaried officers was made for the Court by the Board of Estimate and Apportionment in 1916, and was renewed in 1917. The judges, however, refused to submit to any civil service examination for these positions and the appropriation was allowed to lapse.²¹

A very similar conflict arose, involving the New York City Court of Special Sessions, as to whether the position of probation officer in the lower courts

of the city should be retained in the competitive category of civil service or be placed in the exempt class with the justices of the court making the appointments. A lawsuit was brought against the City of New York by an appointee of the justices by the name of Simons who argued that probation should be an exempt position because of the unique nature of the job and because the state had specified that the probation officer was a "confidential officer of the justices and magistrates." After two lower courts had ruled that probation should be classified as exempt, the case went to the Court of Appeals, the highest court in the State of New York, where it was reversed. Those bringing the appeal included the Municipal and State Civil Service Commissions and Mayor William J. Gaynor. The State Probation Commission appeared as *amicus curiae*.

The Court of Appeals, relying primarily on legislative intent, ruled that the statute did not require the placement of probation officers within the exempt category. Instead, the Civil Service Commission was free to choose whether the position should be within the exempt or competitive category.²² The Civil Service Commission, as would be expected from their role in the suit, ruled that the position of probation officer for the inferior courts in the City of New York would be in the competitive category.

By the following decade, the principle that the position of probation officer was in the competitive category was well established. The case of *Simons v. McGuire*, as cited above, not only applied to New York City but, also, served to establish precedent throughout the State. In addition, the leaders of the probation movement, including the State Probation Commission, were overwhelmingly united in their support of a competitive examination. Finally, on April 28, 1913, the State Civil Service Commission resolved that all probation officers employed by the counties would remain within the competitive category. Approved by Governor Sulzer, this law, in effect, put the entire question of exempt status for the position of probation officer to rest.²³

The Early Examinations

Although the early requirements, in terms of education and prior work experience, for the position of pro-

bation officer may not have been as exacting as they are today, employment in this title was not, by any means, easy to obtain. The two major obstacles to securing a position as a probation officer were the difficulty of the early examinations and the small number of available positions in comparison to the large number of applicants competing for these positions. One of the more extreme examples of the latter type of hurdle occurred in 1910, a year in which there was a statewide total of only 106 salaried probation officers. Yet, in this very same year, there were more than 2,200 applicants for a probation officer examination given in New York City.²⁴

In addition to the large number of applicants vying for relatively few jobs, the pass/fail ratio was, very often, equally discouraging. A State Probation Commission report of an examination given in 1906 for the position of salaried probation officer for several courts in Buffalo is indicative of the challenge faced by applicants of the day. The Commission noted that of the 75 persons taking the examination, "... as a result of the thorough manner in which the examination was conducted, only eight persons received passing marks."²⁵ Similarly, in New York City in 1914, "... in which there were 980 candidates, only 130 passed the test..."²⁶ While these examples may represent the extreme, a review of the examinations of the day, as well as the grading of some of them, confirms that obtaining a position as a probation officer in the early years was often a very difficult, if not impossible, task.

As a general rule, few, if any, specific prerequisites existed in terms of educational credentials or vocational background. These variables were considered in determining the applicant's overall grade but did not serve as an absolute bar to employment. Qualifications for employment, in terms of education and work experience, were phrased in the most general of terms with the lack of specificity, thereby, providing broad areas of discretion for the examiners. The qualifications suggested by the State Probation Commission, in their Annual Report for 1908, for the position of chief probation officer for the Children's Court in Buffalo, provide a graphic illustration of the broad, loosely drawn, and vague language that was invariably used in the early job specifications in probation. The Commission stated that:

... it is extremely important that the chief probation officer possess such a combination of temperament, ability, and interest as will enable him to intelligently organize his work, and to win the respect and confidence of children and exert over them the proper influence. He should be one who likes children, who understands them and the conditions amid which they live, and who has sympathy and persuasive leadership. It is important that he discharge his duties neither perfunctorily nor as a disciplinarian, but that he be thoroughly imbued with the spirit

²²*Simons v. McGuire*, 204 N.Y. 253 (1912).

²³New York State Probation Commission, 7th Annual Report for the Year of 1913, p. 49.

²⁴New York State Probation Commission, 4th Annual Report for the Year of 1910, p. 27.

²⁵New York State Probation Commission, 2nd Annual Report for the Year of 1908, pp. 101-102.

²⁶New York State Probation Commission, 8th Annual Report for the Year of 1914, p. 236.

of probation in order that he both may stimulate and aid the volunteer probation officers, and may impress the children with the fact that he is their friend and helper. The salary provided for the position should be sufficient to secure a person possessing those qualifications. We judge that it should be at least \$1,200 per annum.²⁷

Educational background and credentials were, apparently, not as important in hiring probation officers in the early years as they are today. Flexner, one of the first advocates of the professionalization of probation, provided some indication of the relatively low educational requirements prevalent at the time when he stated, in 1914, that "character of juvenile court work requires in all officers at least the minimum of school education equivalent to that of a high school."²⁸

Apparently, greater consideration was given to an applicant's vocational background and prior work experience than to his educational level. Applicants who had formerly been employed in private social service agencies, for example, were considered highly desirable candidates for the probation officer position. Others actually served as strictly volunteer probation officers for a time so as to gain experience which might then provide entry into a paid position. The high premium that was placed on vocational experience is reflected in the public salute given to the New York City Civil Service Commission by the State Probation Commission for formally scoring vocational or prior work experience as an examination component, thereby, increasing the prospects of hiring experienced applicants.²⁹

The early civil service examinations for probation officers usually consisted of either two or three parts with varying weights given to each part in different jurisdictions. For example, when a civil service examination was given on June 13, 1908, for the position of paid officer in the Buffalo Juvenile Court:

Twenty-five percent credit was allowed for the oral portion, 25 percent for experience, and 50 percent for written answers to technical questions. The questions on experience called for information concerning each candidate's life history, including education, occupation, and particularly his experience in probation or social, educational, philanthropic or correctional work.³⁰

A member of the State Probation Commission was usually in attendance to help conduct the examina-

tion. The written part of the examination was invariably in the form of essay questions which seemed designed, primarily, to evaluate the applicant's knowledge of probation as well as his or her ability to make sound, commonsense judgments.

In the oral part of the examination, according to the New York State Probation Commission's 3rd Annual Report for the year 1909, "the questions asked were intended to indicate the aptitude and fitness of the candidates for probation work."³¹ Flexner and Baldwin, who felt very strongly that the oral portion was the most important part of the examination, described the process in great detail, in 1914, noting, for example, that the oral test "... consists of an informal interview between the examining committee and each applicant personally ... listing for a period of ten to forty minutes." The questions might include such areas as the applicant's attitude toward employment and probation, specifically, "... their history, habits and interests," and he or she might "... also be requested to describe how they would deal with one or two hypothetical cases..." in discussing the value of the oral part of the examination, these two authors concluded that:

The interview affords the examiners an opportunity to judge not only the mental endowments of the candidates, but to get an idea of their personal appearance, manner, temperament, interest, sincerity, force of character, and general aptitude for probation work.

The questions and answers and all conversation during the oral interviews are taken down by a stenographer; and the examiners, independently of each other, rate the candidates either according to the general impression they make, or according to some fixed schedule.³²

The early examinations that were used to hire probation officers may very well have been far more difficult and challenging than the tests given by many probation departments today. To encourage our readers to judge for themselves, we have included below one of the tests that was actually used to select probation officers during the very first decade that probation was in existence in New York State. This examination, which is typical of the tests used during the early years of probation, was administered on January 29, 1910, in Utica, New York, for the position of probation officer in Oneida County. The examination consisted of two parts, written and oral, although we are including only the written portion here. Please keep in mind that although many of the essay questions relate to technical aspects of probation work, the applicants, for the most part, were not probation officers nor did they have any actual prior experience in the field of probation. Also, in almost half the questions posed, complex case situations are presented and the applicant is asked to analyze the situation and the facts presented and prescribe

²⁷New York State Probation Commission, 2nd Annual Report for the Year of 1908, pp. 97-98.

²⁸Flexner, Bernard and Roger N. Baldwin, op. cit., p. 92.

²⁹New York State Probation Commission, 10th Annual Report for the Year of 1916, p. 20.

³⁰New York State Probation Commission, 2nd Annual Report for the Year of 1908, p. 101.

³¹New York State Probation Commission, 3rd Annual Report for the Year of 1909, p. 165.

³²Flexner, Bernard and Roger N. Baldwin, op. cit., pp. 94-95.

suitable treatment despite the fact that the field of probation was still in its infancy in 1910 with its theories and methodologies just starting to develop.

You might want to test yourself against your early professional colleagues of more than 70 years ago. The following questions were asked:

1. (a) What is your conception of the nature and purposes of probation? (b) What kind of persons are suitable for probationary treatment?
2. Describe the history and development of probation in this State.
3. What are the principal provisions of existing law in this State concerning (a) the appointment and compensation of county probation officers; (b) the placing of persons on probation, and (c) the powers and duties of probation officers.
4. Describe in brief the chief features of the system of forms furnished by the State Probation Commission to probation officers for preserving case records and reporting cases to the court, or state what forms, in your judgement should be used.
5. Assume that a young man 20 years old, in company with two older men, has committed burglary in a freight car; that although he lives in the city where his parents reside, he has boarded with a married sister for the past year; that during this period he has run an elevator, driven a grocery wagon and worked in a mill; that he is poorly dressed, and that at his trial he stated he had never been addicted to drink. Were you to investigate this case what information would you seek; from what sources would you endeavor to secure it, and what precautions would you observe in making the investigations?

²²New York State Probation Commission, 3rd Annual Report for the Year of 1909, pp. 168-169.

6. (a) How could volunteer probation officers assist the salaried county probation officer in Oneida county; (b) What kinds of persons would make desirable volunteer officers, and (c) what weaknesses and dangers in the use of volunteer officers are liable to develop?

7. What are some of the chief causes of delinquency (a) among boys and (b) among girls? (c) Under what circumstances would a boy be committed to a juvenile reformatory or training school? (d) What are some of the chief causes of the habit of drunkenness among men?

8. Assume that an 18-year-old boy in a small town is placed on probation for being an ungovernable child, in that he disobeys his parents; that he has been a truant and on one occasion was implicated with older boys in petty thieving; that he has trouble with his eyes and that his father works irregularly and is impatient, and his mother — an estimable woman — sometimes works out by the day. Assume any other facts you choose, and tell what probationary measures you would advise in this case.

9. Assume that a 28-year-old man is placed on probation for nonsupport; that he lives apart from his wife, who lives with her parents; that he has worked considerably at carpentry and farming, but during the past three months has been employed as a porter in a hotel; he abuses his child; and that his wife is an untidy housekeeper and improvident. Assume any other facts in this case and tell what treatment you would advise.

10. Assume that a 14-year-old girl living in a city is placed on probation for stealing peanuts from a peanut stand; that her father is dead and her mother takes boarders and at times earns additional money by telling fortunes; that the girl is a good scholar in school, especially in drawing, but is frequently kept at home by her mother to help with the housework; that the family lives next to a telegraph and messenger company, and that the girl formerly attended a Sunday school. Assume any other facts you choose and tell what treatment you would suggest.²³

END