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A HALF CENTURY OF FEDERAL PROBATION AND PAROLE

Charles H. Z. Meyer

The following is a "request" article for publication in recognition of the Centennial of Northwestern University. Dr. Meyer, the author, is an Associate Editor of this *Journal*. He holds the doctorate in Sociology from Northwestern University and has been Probation and Parole Officer in the U. S. District Court, Northern District of Illinois since 1935. During several years he has been Conference Lecturer and Instructor in various in-service Training Institutes in his District. He has been Instructor in Penology, also, in the Northwestern University Evening College.—EDITOR.

Fifty-six years ago, no federal prison existed, and, of course therefore, no federal probation or parole. First in history came the prison, and later came substitutes for prison. Today the triplets; probation, imprisonment, and parole represent stages of supervision; one *before*, the second *during*, and the third *after* confinement. They give meaning to each other; the prison becomes an incentive toward good behavior on probation or parole; and parole becomes an incentive for good behavior in prison. The three techniques have developed into a *single treatment process*. This is especially true in the Federal Correctional System where, according to statute, the probation officer and the parole officer are the same appointee, who may use the prison program as part of the treatment plan. He arrived on the federal scene slightly over a quarter of a century ago.

I. DEVELOPMENT OF FEDERAL PAROLE.

One hundred years back, federal laws did not permit any leniency. When a man was convicted of a federal offense he was promptly sentenced. Since the government had no prisons of its own, he served his time in a local jail, or state penitentiary for which the Federal Government did or did not pay rent. This early lack of interest in federal offenders was due to the fact that there were so few of them. Consequently, for almost a century the Federal Government showed no concern for its prisoners until 1895, when agitation began for the construction of a government prison. It is not surprising then that such correctional devices as probation and parole were not used at first in the federal system as substitutes for imprisonment.

With the turn of the century, the number of federal criminal laws increased. With increased laws a greater number of federal offenders

came to the government's attention. When the first federal prison became overcrowded the question of legal release procedures came to the notice of Congress. On June 25, 1910 the Federal Parole Act was passed. There were too many lifers in the federal prisons at that time, because sentences in those days were severe; so in 1913 the parole law was amended to make these eligible for parole after having served 15 years. Each penitentiary was authorized to have its own parole board, consisting of the warden, the prison doctor and the superintendent of prisons in Washington, D. C. All were under the control of the Attorney General, and so, no parole could be effective without his approval. Each institution was given a parole officer to supervise the parolee and receive reports from him as required. If the parolee did not live too far from the prison, the parole officer would make field visits to him. Soon however, parolees were scattered all over the nation so that the parole officer could not make visits but had to remain at his desk in the institution. As a result, there were no officers in the field until 1930 when Congress amended its Probation Act, giving federal probation officers the added responsibility of supervising federal parolees. Administratively this worked out very nicely at first, because probation officers were members of the Department of Justice and therefore were under the direction of one person—the Attorney General. Without his approval no judge could appoint a probation officer. This tendency toward centralization was helped by the Volstead Act of the Prohibition Era which so increased the ex-inmate population that a more centralized control and direction of parole functions seemed urgent. Consequently in 1930 by Act of Congress, a central three-member board of parole was created with headquarters at Washington in the office of the Attorney General. This board had sole authority of granting parole and revoking parole. To centralize direction of the supervision of the parolees, a parole executive was appointed by the Attorney General with offices at the headquarters of the parole board. This executive gave directives to the probation officers in the field. Complications in this ascendancy of power were in the offing.

The number of prisoners increased, but only a small percentage made parole. According to law in order to qualify for parole a prisoner had to find a reputable sponsor, as parole advisor, a legitimate and acceptable offer of employment, and an approved place of residence. In those days the public attitude toward "ex-cons" was more severe than it is now. Many prisoners were unable to get sponsor or employment help from their home communities. So they were released, "scot-free," for good behavior under the Good Time Acts, before expiration of

the maximum sentence. Many of these found it difficult to adjust into prejudiced and hostile communities. They repeated in crime and were sentenced back to prison. It was reasoned that if these men could have the assistance of probation officers they would be able to make better adjustments and society would be better protected. So in 1932 the Parole Act was amended under Public Law 210 to "Conditionally release" these "Good Time" men "as if on parole." They were placed under supervision like parolees, had to report regularly, and could have their conditional release revoked for bad behavior. That increased the work of the parole board and field officers.

Inevitably a three-man board could not keep up with the work involved. Federal laws increased, and with that, violators multiplied. Pressures of time and the demands of interested individuals influenced the judgment of the under-staffed board, so that eventually in 1947 it injudiciously but legally released a gang of notorious national offenders to Chicago and elsewhere. The political repercussions brought about a Congressional investigation with the result that in 1948 Congress revised United States Code, Title 18, Section 4201 increasing the membership of the Federal Parole Board from three to five full-time members. The public demand that these "hoodlum" parolees be returned to the penitentiary without overtly violating their paroles, brought another matter into focus which had long been under consideration. Under the statute a returned parolee received no credit for time spent on parole and had to complete the full unexpired portion of his sentence in the penitentiary. He could not again earn good time. Obviously this was not always fair, especially in cases where a parolee was returned on a mere technicality, which seemed to have been the case with the above notorious offenders. Also, the returned parolee made a poorer prison adjustment because he had no incentive to try to get out earlier. Then too, society was less protected, for when he did finally come out he was entirely free of any supervision. Accordingly, at the same time that congress increased the parole board to five members, it also revised Section 4161 of the Code, to make possible the re-release from the penitentiary of returned parole or conditional-release violators, after they had again earned statutory good conduct time at the prevailing rate for their respective sentences. This was more economical to the government and to society, because prison keep is expensive.

The next problem to capture the law-makers' interest was that of the youthful offender, over one million of whom come to the attention of the police each year. From 29 to 30 percent of the federal pris-

oners today are youths under 24 years of age, and 70 percent of these are first offenders. One of the major problems is to equalize the divergent sentences these youths receive from different judges for similar offenses. James V. Bennett, Director of the Bureau of Prisons¹ points out that rarely a day goes by that one of his institutions does not receive a youth whose sentence is "far too long, or far too short" for correctional treatment purposes. There was a mounting feeling that there should be closer cooperation between the court, the correctional administrator and the paroling authority, particularly as regards these youth offenders. This problem was first studied by the American Law Institute and later by a special committee appointed by the Chief Justice of the United States. The result was the Federal Youth Corrections Act, which was unanimously passed by the Congress and signed into law by the president on October 3, 1950. This act authorizes an eight-man board, abolishing the five-man parole board if and when the eight-man authority has been established. This new board has an Adult Division and a Youth Division. The Adult Division is to have five members appointed by the President, and the Youth Division is to consist of three members designated by the Attorney General, all to be confirmed by the Senate. At this writing the new parole board has not yet been appointed.

Governmental economy at home became the order of the day in deference to our foreign and defense commitments. Congress limited or reduced the budgets of its civil departments, including that of the Bureau of Prisons. This partly accounts for some more recent changes in the parole statute in order to effect economies. On June 29, 1951 the President signed Public Law 62, sponsored by the Bureau of Prisons. According to this law a prisoner who has earned 180 days, or less, of good-time will be completely discharged without supervision as if he had served his full sentence. If he should violate the next day he cannot be returned to the institution. If he has earned more than 180 days good-time he will be under conditional-release supervision only for the remaining number of good-time days over 180. It is estimated that this will decrease the number of conditional-releases by 60 percent. About 18 percent of these will violate after release; but they cannot be returned to the federal penitentiary as parole violators. They must be tried on new charges. This is an economy to the Prison Bureau.

The reduction of work to the probation officers is even greater because of the shorter supervision periods resulting from the arbitrary six months credit which all conditional-releasees receive. Because of this

1. FEDERAL PROBATION, September 1951, page 6.

6 month credit, it is estimated that the work of the probation officers will be cut by at least 80 percent for this type of supervision case. This means that in the future less probation officers may be needed—a further economy.

In addition to economy there are other reasons for this act. In some cases conditional release handicapped the men in their line of work, especially if such work required extensive travel or a bond. In some cases conditional-release was meaningless because the men needed no supervision and as they expressed it, "could do my release time standing on my head." Last year over 400 conditional releasees were returned as violators: 101 of these failed to report or would not go back to their homes; 100 had to be located and sent back; 10 percent were sent back for having been in a tavern; and a large number were back after finishing a term on a new state charge—a kind of double jeopardy, i.e., serving twice for the same offense. Sending men back for these causes probably does not accomplish anything. Once a man has been in a penitentiary he is not frightened by it and so it is not a deterrent to further crime. Sending such violators back, on the other hand, is extremely costly to the government.

The fallacy in this point of view is that shortening the supervision periods arbitrarily may be a savings to the Bureau of Prisons but is no savings to society. It might save some of the federal taxes, but does not save in overall crime costs. Actually the arguments given in favor of the Act point an accusing finger toward an administrative failure to supervise conditional releases wisely. To substitute mass release of prisoners for release under selective supervision violates the principles of case work or individualized corrections. Obviously some types of prisoners with a thirty months sentence or less should not be turned out "scot-free" to prey immediately upon society, simply because they have a good behavior record in the institution. A policy of selective supervision from minimum to very close, and of discretionary warrants based upon *treatment needs* rather than upon the letter of the law, would have accomplished economies and yet protected society. Nineteen years ago penal administrators had misgivings about the wisdom of thrusting men from prison into free life without guidance or restraint and so secured the passage of the Conditional Release Act extending the span of control through the good-time period to the maximum expiration of sentence. It is true that this added a volume of unpromising cases to the work of the probation officer—but now, the burden has been bequeathed back to society at large.

The governmental economy drive forced prison administrators to seek newer ways to reduce their prison population. On July 31, 1951 the President approved Public Law 98 which shortens the time for parole eligibility. Before this law was passed a prisoner with a sentence of one year or less could not make parole; whereas the prisoner with a sentence of one year and one day was eligible for parole within four months. The former might be more worthy than the latter for parole consideration, but he could not get it. The new law, therefore, provides that a man with a sentence over 180 days is eligible for parole after two months or after serving one-third of his term. This will further reduce the federal prison population, because it is estimated that about 3,000 persons or about 30 percent of federal prisoners annually receive sentences from 6 months to one year. This law also provides that everyone with a sentence over 45 years becomes eligible for parole after serving 15 years. Formerly only those with life-terms could qualify after 15 years. The pressures for economy are bringing about a tendency toward shorter periods of incarceration. This may mean that newer and better ways of treating offenders will have to be found.

The needs of the prisoner about to be released are being considered in a bill before the Congress at this writing. It will permit a released prisoner to borrow up to \$150 from the prison commissary fund, to be repaid when he has re-established himself in society. The commissary fund is usually built up by profits from inmate purchases and thus the loan would not be made from tax funds. Heretofore a released prisoner was given a gratuity of ten to fifteen dollars together with the best wishes of the prison administration that this amount would see him through his readjustment period. Needless to say, some persons without family, friends or resources of their own, soon found themselves on the way back to prison.

This brings the development of federal parole up to date. There seems to be evident in its history an over-all trend toward humanizing punishment, and thereby protecting society from the vindictive retaliations on the part of frustrated convicts, in and out of bars.

II. DEVELOPMENT OF FEDERAL PROBATION

One hundred years ago or so, the federal theory of criminal justice, in common with the times, was punitive. It held that the primary function of the federal courts was to establish guilt and impose punishment as a form of retribution, and as a deterrent to further crime. Consequently, long before there were any probation laws on the statute

books, the federal courts found themselves struggling with the harsh and severe penalties they were compelled by statute to impose upon wrongdoers. The laws provided no alternatives. In time, experience demonstrated that imprisoning an offender took him out of circulation and protected society from his depredation only temporarily. Judges gradually came to discard the theories of retribution and deterrence, until today they are striving to protect society by a method of correctional treatment which helps the offender to adjust himself into a useful and law-abiding citizen, thereby benefiting not only himself and his family but society as a whole. At first, the federal judges had no definite statutory tools to accomplish this.

About the same time that there was an agitation for a federal parole act there was also a movement in 1909 toward enactment of a federal probation law. The campaign was initiated and sponsored by the National Probation Association. The movement suffered repeated set-backs. Legislative proposals were submitted at each congressional session, and were regularly defeated for 16 years. In all, 34 bills were introduced in the Congress before federal probation became a law. The delay can be placed primarily on the Attorney General, the Volstead Act, and partly on the federal judges themselves, who thought they could temper the severity of the law without a probation act.

The federal judges found many mitigating circumstances in individual cases which did not seem to compel the full penalty of the law to be imposed. For example, during prohibition days, young boys of 16 or 17 years would frequently wander near a still and watch what was going on. They were arrested, indicted, and charged with being accessories to the offense. In other instances old men with chronic complaints would be caught with a bottle of medicinal "moonshine." The law was without choice—sentence must be imposed. In the absence of a probation statute, the more humanitarian judges began to exercise discretion to modify the penalties. Over a period of time five techniques developed in federal practice: (1) Partial suspension of sentence; (2) Suspension of sentence in entirety; (3) Continuance of sentence to a later date often indefinitely; (4) Suspension with provision for oversight; (5) Suspension with other provisos, which can be considered unclassified suspensions. The law did not say that these judges had the right to suspend judgment or sentence, but many of the federal courts reasoned that what the law did not forbid was allowed and so more and more federal courts began suspending sentences until by 1916 thousands of offenders were at liberty under that process. The weakness of the method was that there was no provision of supervision for most of these

offenders, although some of the federal courts appointed volunteers to act in the capacity of sponsors or supervisors.

The Attorney General's office opposed this growing practice on the ground that it was illegal since it was not specifically provided for by law. So a test case was taken to the supreme court by the Attorney General. In 1914 an assistant cashier in a Toledo bank embezzled \$4,700. On March 5, 1915 Federal Judge Killitz imposed a five year sentence, which was the least the statute would allow. He then suspended the execution of that sentence, if the embezzler promised to behave himself. No supervision was ordered. On December 4, 1916 the United States Supreme Court ruled that this practice was illegal and not in accordance with the Constitution which requires the court to uphold the law, unless there is a statute making it legal for the court to exercise the power of suspension of sentence. Five thousand federal offenders were at the time under suspended sentence. These would immediately have to be imprisoned, which would have been a tremendous strain on the inadequate federal prison capacity at that time. Therefore on June 11, 1917 President Wilson signed a Proclamation of Amnesty and Pardons for these men.

After the Killitz decision, the federal courts were hard put to it to find some method of showing leniency in exceptionally meritorious cases. A few judges tried to continue certain cases indefinitely. Then came the prohibition law with its Volstead Act. Mr. Volstead was chairman of the Congress Judiciary Committee. He insisted that no leniency be shown liquor violators. He opposed every attempt to get a probation act on the floor of Congress. Before 1916 many of the federal judges opposed a probation statute as unnecessary so long as they could suspend sentences, and also as being more economical to the government which would not have to employ probation officers. However, after the judges lost the right to suspend sentence, they gradually began to think in terms of a probation law, and especially did this feeling increase when their dockets became overburdened with so many minor liquor cases that they could not keep up with them. Mr. Volstead indirectly assisted the cause for probation by vehemently opposing it in Congress and insisting that penalties become more severe. Finally when his term ran out in 1924 and a new chairman of the judiciary committee was appointed, the Federal Probation Act was passed by the Congress and became law by the signature of President Coolidge on March 4, 1925. This Act permitted each federal judge to appoint one probation officer from a certified civil service list. The Act was only partially effective, because no funds were appropriated and so no

appointments could be made. Nevertheless the courts began using it by appointing volunteers or other court employees to act as probation officers. This did not work out very satisfactorily.

In 1927 an appropriation of \$25,000 was authorized, making possible the appointment of the first federal probation officer on April 25, 1927. Two more officers were appointed that year. Because of the smallness of the appropriation, and because of the courts' objection to civil service requirements, only eight probation officers were appointed during the next three years. This was the period of experimentation, when probation was administered by the Superintendent of Prisons in the Department of Justice.

On June 6, 1930 the Federal Probation Act was amended, abolishing the civil service feature, removing the limitation of one officer per court, and giving to the probation officer the added responsibility of supervising federal parolees. In addition, the Attorney General was given the responsibility of developing the probation service, and was authorized to appoint a Supervisor of Probation directly responsible to the Director of the Bureau of Prisons. The appropriation was increased to \$200,000. As a consequence, within a little over a year 55 new appointees were added and by 1940 the service had expanded to 233 federal probation officers.

During this period of expansion the power of the Attorney General over court personnel was on trial. Although the probation staff was appointed by the courts, the Attorney General supervised them, approved or disapproved their appointment, controlled the salary scale, fixed the standards of qualification, and set the policies of performance. In 1937 the Attorney General published high probation personnel standards recommended by his Director of the Bureau of Prisons. On December 20, 1938 the Director of Prisons appointed a Chief of Probation and Parole Services, "to coordinate the probation and parole activities of the Bureau of Prisons." To assist this Chief, the Director appointed a Supervisor of Probation, and a Parole Executive to supervise parole. This central directorate seemed very desirable, but not politically so. Some of the federal judges objected to the Attorney General's power. Then too, there was considerable controversy whether probation was an administrative or judicial device. On August 7, 1939 the President approved an Act of Congress establishing the Administrative Office of the United States Courts with offices in the Supreme Court Building, and authorized the removal of the probation service from the office of the Attorney General. On July 1, 1940 the Federal Probation Service was transferred to the Courts' Adminis-

trative Office, which now determines personnel standards, salary scales and performance standards for the probation officers who are appointed by the district judges.

Shorn of direct control and having by law no field parole officers of his own, the Attorney General's Director of the Bureau of Prisons and his Parole Executive now issue their parole directives by conference through the chain of command of the Administrative Office. This liaison arrangement works out very nicely so long as the guiding personalities are agreeable and have similar points of view. There is the possibility, however, of a potential dislocation, should personality clashes develop between the two services. After a decade of unified correctional services in the 1930's the Federal Government divided its correctional structure. Federal corrections has now become a cooperative enterprise. The more progressive states, however, are bringing their correctional services under central direction.

At the close of World War II in 1945 a similar cooperative arrangement was worked out with the United States Army whereby the court probation officer renders service to the Army as parole officer over military offenders released under supervision. The same is true for the Air Force military prisoners.

In addition the court probation officers, since 1940, act in a liaison capacity with the United States Public Health Service which operates two hospitals for the treatment of drug addiction. The Public Health Service is in the Treasury Department, separate from that of the Bureau of Prisons or Federal Courts System, but at the request of the hospitals the probation officers make investigations, and supply reports, and keep in touch with the families and communities of the narcotic violators. The reason for this arrangement is that usually these offenders are placed on probation by the court on condition that they submit to treatment at one of the two federal hospitals for addicts.

Studies made by the United States Public Health Service Hospital at Lexington, Kentucky show convincingly that narcotic addicts on probation have the best record of cures. These studies also show that 40 percent definitely relapse and return to the hospital whereas 60 percent are new admissions. The findings further indicate that all addicts relapse if treated for less than three months, and that the most effective treatment period is from four to six months in the hospital followed by outside supervision. After such a period of hospital treatment, those who were going to relapse anyway did so within two and a half years. The supervision period therefore, whether on probation or parole should be at least that long. It is estimated that there are about 48,000

to 50,000 addicts in this country. This number remains about constant, notwithstanding all of the newspaper publicity since 1949 of the narcotic problem. The chief difference, now, is in the population redistribution of the addicts. In 1940, 90 percent of the addicts for treatment in Lexington, Kentucky were white, and 10 percent were colored. After 1948 the ratio of admissions changed to 40 percent colored and 60 percent white. In 1940, less than 1 percent of the addicts were under 21 years of age. In 1946 this number had risen to about 3 percent. Today the youth admissions at Lexington are 20 percent, but the total inmate population of addicts does not seem to change appreciably. Since it costs the average youngster six to 15 dollars a day to support a habit, few can do so without getting caught before the habit becomes too confirmed. Most of them are amenable to treatment if placed under the supervision of a capable probation officer long enough.

To assure a sufficiently long period of supervised treatment, the Congress passed, and the President signed on November 2, 1951, Public Law 255 making it mandatory that in cases of narcotic violators the federal courts must impose sentences as follows: for the first offense not less than two years; for the second offense not less than five years; and for the third offense not less than ten years. Probation can be granted only for the first offense. These longer mandatory sentences make longer parole supervision periods possible. This is desirable. However, since parole cannot be granted until at least one-third of the sentence has been served, the confinement period extends considerably beyond the optimum institutional treatment period of four to six months. This is undesirable, because after the hospital pronounces the addict physically cured within six months, he is transferred to a penitentiary to mark time. This is an unfortunate result of dramatic hysteria-publicity.

Juvenile offenders of federal law, although not great in number, have always presented a special problem to the federal probation officers and correctional workers. The Federal Government in its early history had made no provision for him in its penal structure. In 1932 a law was enacted authorizing United States Attorneys to divert persons under 21 to state or local courts if these were willing to accept jurisdiction. But if diversion for one reason or another could not be effected, the Federal Government had to process the juvenile through its courts as if he were an adult, and confine him with adults. On June 16, 1938 the Federal Juvenile Delinquency Act became a law in recognition of a long-established juvenile court principle that the young offender needs specialized care and treatment. It provided that a young offender

under 18 years can be prosecuted on information (not indictment) if he so consents in writing; can be heard by the court in private at any time or place within the court district without jury trial; can be placed on probation or committed up to his 21st birthday to any public or private agency so as to be segregated from adult offenders; and can be paroled immediately or at any time after sentence. The Director of the Bureau of Prisons was authorized to contract with any agency for the care of the juvenile delinquent.

The probation officer is the key person in administering this act. Immediately upon arrest of a juvenile, he interviews the youthful offender, investigates his family, and consults the U. S. Attorney for possible diversion to the local juvenile court. He makes his findings available to the U. S. Attorney, the U. S. Commissioner, the Federal Court, the Bureau of Prisons and the Parole Board. He notifies the U. S. Marshal of suitable places of detention; arranges an early court hearing so that the youth is not detained too long; sees that he is not finger-printed; and determines that he is given intensive supervision from the time of arrest until completion of his term of surveillance. The probation officer's responsibility to the juvenile offender under this Act is one of his most important and exacting duties. This procedure, however, leaves a conviction record with the juvenile.

An attempt to circumvent a court record for juvenile offenders was officially made in January 1946. The Attorney General authorized all United States attorneys to make use of the "deferred prosecution" procedure whenever juvenile offenders were involved. This is sometimes referred to as "The Brooklyn Plan" because it was used as early as 1936 by the federal prosecutor and probation officer of Brooklyn, New York. However, even earlier, a similar technique was experimented with in the Eastern District of Pennsylvania and in the District of Kansas. According to this plan, the U. S. Attorney may defer prosecution of a juvenile on the basis of a voluntary probationary supervision period before trial or conviction. The district attorney and the probation officer work together to determine whether or not prosecution is necessary. The probation officer makes a pre-prosecution investigation and written report which may never come to the attention of the court. On the basis of this report the U. S. Attorney defers prosecution for a definite period and requests the probation office in writing to exercise supervision over the youth as if he were on probation. The probation officer submits progress reports to the United States Attorney and submits a recommendation at the end of the supervision period. If the report is favorable the original complaint is dropped and the youth-

ful offender has no record or criminal stigma, and society has been as well protected as if the youth had been formally placed on probation. If the young offender fails to make a satisfactory adjustment, the complaint is filed and he is processed under the Juvenile Delinquency Act. Of the two hundred cases supervised in Brooklyn on this deferred prosecution plan only two violators had to be referred to the court by due process of law. More time, however, is needed to fully evaluate results of this deferred prosecution method.

As for the Federal Juvenile Delinquency Act itself, the results are gratifying. In 1946 there were about 4,000 juvenile cases in the federal courts. By 1950 these dropped to approximately 2,000 cases. Diversion to state or local courts may partly be responsible for this drop, even though diversion is not yet practiced to the fullest extent, since only 12 percent were successfully diverted in 1950. Detention periods have become shorter, although detention of federal juveniles is still too long in some districts; 1,100 juveniles spent an average of 19 days in jail awaiting trial; 56 percent of these spent all their time before trial in jail. Then too, there is need for more private detention agencies so that youth can be kept away from adult criminals. But, in spite of these lags in performance, it appears that the more intelligent treatment of juveniles under the Delinquency Act has reduced their recidivism and lowered the number of federal juvenile cases nearer to the number of first offenders only.

To facilitate the supervision of these Juveniles as well as other probationers a law was enacted in 1948 and approved May 24, 1949 as part of the revised Criminal Code, providing for the transfer of Jurisdiction over probation cases from one district court to another. Prior to this time supervision only was transferable, the original court retaining jurisdiction, receiving reports, revoking or terminating probation. This was always an expense to the government in transporting the probation violator back to the original court, and involved a delay in the process of justice because all matters had to be referred back to the first court for decision. This lessened the influence of the probation officer in the receiving district. In 1949, 13,048 persons were placed on probation, of whom 2,791 or over 21 percent were transferred to other districts. It therefore was believed that transfer of jurisdiction would strengthen the arm of the probation officer actually doing the supervising. However, to date the technique is not being used greatly. Of the 2,586 probationers who moved to other districts in 1950, only 219 cases or 7.8 percent were transferred as to jurisdiction, 104 when they moved and 115 later when they violated. For

the first seven months in 1951, 2,451 probationers moved out of their districts, but only 222 or 8.3 percent were transferred to the other jurisdictions,—101 when they moved and 121 after a violation. There may be several reasons for this failure to transfer jurisdiction. Firstly, both courts have to agree to the transfer; secondly, considerable red tape is involved; thirdly, some courts object to receiving jurisdiction for revocation purposes only of cases they themselves did not select as suitable probation material and thus lower the probation success score for their districts; and fourthly, transfer of jurisdiction is only partially complete because the law does not permit the receiving judge to shorten the probation period for good behavior of the offender. Only the original court can do that. Such a provision stimulates a lack of confidence between courts.

Crime in this country is essentially a youth problem. Few adults become criminals after they are mature. The majority began as youth offenders. To meet this problem the Federal Youth Corrections Act was signed by the President on October 3, 1950. This Act has been referred to as the most forward step in law enforcement history. It defines a youth as under 22 years of age. It gives the courts greater discretion and several new alternatives for dealing with him: (1) It can place him on probation; (2) The court can sentence him as always under the adult criminal procedure; (3) It can commit him for six years, the last two years of which at least must be on parole or "furlough"; (4) It can commit him for over six years but not longer than the penalty provided by statute for the offense, the last two years of which at least must be under released supervision; (5) It may commit him to a diagnostic board or classification center for study for a period of 60 days, or as long as the court grants, in order that the court may be provided with more adequate information regarding the young offender's treatment needs.

The Act places upon the Bureau of Prisons the responsibility of establishing classification centers, of providing diversified institutional and treatment facilities public or private for retraining and re-education, and for recommending to the Youth Division of the Parole Board the release of a youth ready to go back to the community. The Youth Division will determine when a youth offender shall be released and how long he shall remain under supervision. After 30 days the diagnostic center gives a report to the Director of the Bureau of Prisons and to the Youth Division. Periodic progress reports are regularly forwarded to the Division regarding the youth under treatment. One member of the Division interviews the youth after the reports have

been studied and makes recommendations to the Division and to the Director of Prisons. The Division is authorized to organize voluntary supervising agents and to form sponsor groups of limited powers and duties.

The Act further provides for an Advisory Correction Council, composed of a federal circuit judge, two district judges, and a chairman designated by the Attorney General. Ex officio members are the Parole Board Chairman, the Youth Division Chairman, the Director of Bureau of Prisons, and the Chief of Federal Probation. This council shall hold stated meetings and make recommendations to the Congress, President and Judicial Conference and other appropriate officials regarding improvement in the administration of criminal justice, and regarding treatment of all persons convicted of offenses against the United States.

The Act does not become operative until the Attorney General announces that some of the major facilities have been set up. The probation officer will play an important role under this new Act, and will work closer with the judge, the parole board, and the institutional personnel. Some probation offices may become behavior clinics or study centers, and may have to give the pre-release interviews if the offender is in a local or private institution, as well as make all of the presentence environmental studies and reports. Never before in Federal service was there such an integration of correctional measures under a single body or authority, with such flexibility of operations that almost any form of correctional treatment can be given. For example, it is now possible to experiment with furloughing youthful prisoners who can come back to the institution by choice or by necessity without prejudice, preserving their seniority rights and even getting back their old favorite bunks. The federal judges are looking forward to implementing this Authority.

III. PRESENT STATUS

With the exception of the Youth Authority which is not yet operative, the Federal Correctional System today is not a tightly knit organization of centralized control under one management or governing board. Nevertheless, it functions as a unit by virtue of an integrated theory of corrections, a unified treatment process, a common policy of procedure, and a singular practice. Although not structurally a unit, the system functions as a cooperative whole to give a single service to an offender—namely his reestablishment of acceptability. Its unity is in the idea of treatment. Consequently it seems to operate as *one man*, although there is no one-man leadership.

At present the federal probation service is the largest probation-parole system in the world. There are 138 field offices in the federal probation group, including every state of the Union. As of September 1951 there are 311 full-time probation officers, including those appointed in Puerto Rico, Hawaii and the District of Columbia. They supervise an average of 30,000 persons, two-thirds of which are probationers, and the rest are parolees, conditional releasees and military parolees. The average caseload, in 1950 was 99, but by May 1951 it had dropped to 95. Twenty years ago the original eight officers supervised 4,281 persons or over 500 per officer. Even ten years ago, he supervised an average load of 148 cases. According to authorities in the field the average case load per officer should not be over 75, which ideal leaves the federal system lagging somewhat.

The efficiency possible with lower case loads is reflected to some extent in the greater number of revocations. For example, during the past five years, probation revocations have increased 20 percent. These percentages are even more significant in view of the fact that during the past decade there has been a substantial drop in federal crimes. The number of federal criminal cases during 1950 was 3,500 less than in 1941. The number of probation and parole cases also dropped from 35,000 to 29,882. When an officer has an extremely high caseload he cannot keep up with it and violators get by.

Another evidence of efficiency from lower loads is indicated partly by the improvement shown with federal juvenile delinquents. During 1950 less than 3 percent of the juveniles, as compared to 30 percent in 1940 were tried under regular criminal statutes for adults, instead of under the Federal Juvenile Delinquency Act. Also the proportion of juvenile cases handled without court action doubled from around 14 percent to about 29 percent. With less pressure of load, the probation officer can give more attention to this problem.

From the first appropriation of \$25,000 in 1927, the annual budget for the Federal Probation Service is now around \$2,300,000. The present Congress being economy-minded has reduced this budget by 10 percent for 1952. Some vacancies therefore as they occur cannot be filled. This is regrettable because probation is the most economical form of corrections therapy. In 1930 the per capita cost of supervising probationers was \$21, whereas penal maintenance was \$300 a year per inmate. In 1949 the per capita cost for probationers jumped to \$67.53 but for federal prisoners it increased to \$1,138.80 each. Even at inflated prices probation and parole supervision is the most reasonable treatment financially. Based on a daily average of 30,000 persons on

federal probation and parole, the savings over imprisonment is nearly 32 million dollars a year.

The question of personnel standards calls for constant compromise between the district courts and their administrative office. The district courts appoint but the Administrative Office controls the salaries. The entrance salary scale at the present moment is \$4,205 a year and can go as high as \$5,810 for probation officers. The salary for chiefs ranges from \$5,940 to \$9,360 depending upon qualifications, responsibilities, and length of service. Naturally, such salary ranges can command a high type of personnel. The Judicial Conference of the Senior Circuit Judges of the United States in September 1942 recommended the following qualifications for federal probation officers.

- (1) Exemplary Character.
- (2) Good health and vigor.
- (3) Appointment age from 24 to 45 years inclusive.
- (4) A bachelor degree, or its equivalent.
- (5) Two years of welfare work experience, or two years of graduate study in social service, or two years of some professional training.

Since these are merely recommendations the district courts are not compelled to follow them. The Administrative Office cannot enforce these standards except by withholding the salary from an appointee who it deems not qualified. Such action may result in the district court refusing to make another appointment and weakening the probation service in that district. In such a case, the work of the Bureau of Prisons and the Parole Board, which have no field officers of their own as parole supervisors, would be affected. Likewise the Army and the Public Health Service would be left without adequate supervision services. Therefore, some compromise or cooperative solution is usually arrived upon, in order to maintain field supervision. On January 1, 1950, 64.3 percent of the probation officers were college graduates, and 21.5 percent of these had masters degrees or better. Only about 13 percent of the new appointees since 1942 failed to meet either the standards of education or experience. During 1950, however, there was a 15.6 percent drop in appointees meeting the personnel standards. Federal judges, being appointed from among the nation's lawyers, frequently are inexperienced with probation administration and personnel requirements. The drop therefore might have been greater except that the Administrative Office puts forth every effort to encourage the appointment of probation

officers who meet the qualifications recommended by the Judicial Conference of the United States.

In order to lift and maintain a high level of performance an in-service training program has been developed for federal probation officers and the paroling personnel of federal penal institutions. Probation officer institutes are held at two year intervals in five governmental regions. Leading universities in the respective areas cooperate in these training programs. The institutes usually last four days. In addition to these training conferences, it was felt that there should be an established schooling center for new appointees to receive orientation and indoctrination courses before going on the job. In the fall of 1949 the Federal Judicial Conference approved such a school. As a result a training school has been set up in the Probation Office of the Federal Court of the Northern District of Illinois, at Chicago. It holds four sessions a year of at least two weeks duration each. The School of Social Service Administration of the University of Chicago is cooperating in this venture. Members of the Bureau of Prisons also assist in the training program of the Probation System.

As the professional integrity of the federal probation service is strengthened, there comes a desire for research to study results of the treatment process. At the present time about 7 out of every 8 persons, who are placed on federal probation make good while under supervision. During the last ten years only 14.3 percent of the federal parolees failed to make good while on parole. No one knows however how many supervised persons fail after they are discharged from surveillance. Follow-up studies have now been undertaken by the sociology departments of the Universities of Alabama, Maryland, and Pennsylvania, in conjunction with the federal probation offices in Birmingham, Baltimore and Philadelphia. The Alabama study already has shown that during periods of 5.5 to 11.5 years after successful completion of probation, 83.6 percent were "free from subsequent convictions of any kind." These beginnings in research and service-analysis are marks that probation as practiced in the federal courts is approaching a more professional status.

As pointed out earlier, the present treatment program is a cooperative function of three separate units in the Federal Correctional System. After a finding or plea of guilty, the court calls upon the probation officer to make a social and character study of the offender and prepare a presentence investigation report of his findings to assist the court in disposing of the case. If the court decides to place the man on probation, this investigating officer becomes the offender's supervisor for the

period imposed by the court. Theoretically the officer keeps the court informed of the probationer's progress but practically both court and officer are still too overloaded to carry through consistently in this regard. If the officer and the court find that very satisfactory progress has been made, the court may shorten probation and terminate supervision. If however, the probationer violates the terms of his probation, it may be revoked for a sentence to be imposed. Whenever a man is sentenced, a copy of the probation officer's study is mailed to the receiving institution, and one copy to the Parole Board. This report is helpful to the institutional diagnosticians in evaluating the newly arrived prisoner and in developing a plan of treatment for him. A copy of the institutional findings is mailed back to the probation officer within about 60 days, and a progress report from the institution is forwarded to the probation officer about every three or four months. The probation officer may from time to time suggest the type of treatment the man might receive in the institution. When the Parole Board believes the man is ready for release, the board requests the probation officer to prepare a community rehabilitation plan for the prospective parolee. Because the same officer who made the original presentence investigation usually receives the sentenced person back under supervision at paroling or releasing time, it is important that a consistent treatment program be maintained from start to finish, so that the different functions do not clash with one another. When the prisoner is finally released on parole he knows that the probation officer had much to do with it, because rarely could he have come out without the probation officer preparing and approving a plan in the community. Frequently the institutional personnel will suggest to the probation officer a follow-up program of treatment while the man is on parole, such as continuing medication, or vocational training, or psychiatric help. This brief statement illustrates how in the federal correctional program, all three functions, probation, imprisonment, and parole work together in one continuing process.

IV. THE FUTURE.

Meritorious practices live long. Others are short lived. Therefore, no immediate change in the functions of federal probation officers is to be expected; they will continue to investigate and to supervise. They will probably continue to do parole work: because of federal economy drives; because probation and parole supervision are not different in kind, only in degree; and because of past experiences of success in simultaneously treating both. Caseloads, which have been decreasing, will no

doubt become smaller and approach the ideal: as officer appointments increase; as crime prevention programs reduce convictions; as conditional release periods become shorter due to the 180 day credit; and as the economy of effective small-caseload supervision becomes common knowledge. Future personnel appointments will probably approach a higher standard: as judges become better informed of the requirements of the job; as present officers demand professional recognition; as more schools offer specific training for corrections; and as the Administrative Office seeks public esteem for its treatment program. Before long, in-service training will no longer be an experiment but a requirement: because training-plus on the job is already an accepted business practice of proven economy; because the F.B.I. and other efficient investigative agencies have set the pace; and because universal military training has demonstrated to most men the value of short refresher courses.

On the horizon is an attempt at community pre-release preparation. The Federal Bureau of Prisons already has a definite program of pre-release training for its prisoners about to be released. The purpose is (1) to promote inmate capacity and willingness to handle his own affairs, and (2) to acquire some information for improving prison function. Business men, police, probation officers, vocational guidance specialists, prison personnel are invited to sit with a group of inmates and just "talk it out." But no similar preparation of the community is made to receive the released prisoner. The most critical period of a released prisoner is immediately following his return to the community. Studies show that violation rates are highest within 6 months. Most of this is due to community resistance, lack of work references, difficulty in establishing credit, and hardships in renting suitable living quarters. Some method needs to be worked out for preparing employers, neighbors and the community as well as the prisoner for his release.

Close to this subject of community preparation is the use of volunteers in a community to sponsor probationers and parolees. In fact, it is still a matter of law that each parolee must have a civilian and voluntary sponsor to assist the parole officer in the supervision of the case. Federal parole is usually not granted without such an approved sponsor, even though he may act in a very perfunctory and useless manner. An intelligent use of persons of character and good reputation can supplement the work of the probation officer. An attempt is under way to organize an association of voluntary sponsors for probationers, especially for federal juvenile offenders. In fact, the Youth Corrections Act

specifically authorizes the formation of a sponsor group. With present large caseloads a probation-parole officer cannot divide his attention so as to meet in his own person some of the deeper needs of the individual offender. Since probation officers cannot work well within a void of community contacts, there is the possibility that more use will be made of sponsors from the citizenry of the nation, as in Holland.²

In some not too distant tomorrow, greater use will be made of prediction tables in preparing presentence reports, pre-release reports and in supervision planning. Many prediction studies have been made and a formidable array of tables are available. The Glueck's in their new book on "Unravelling Juvenile Delinquency" have devised three prediction tables, which, although not fully reliable are better than a guess. Most court decisions at present, as well as treatment planning, are based on a guess, or on a hope of satisfactory outcome. Perhaps the violation rate could be reduced, if we had a better method of prediction. The fact that probation-parole officers do not use such tables wisely is indicative of their lack of professional attainment as yet. Since professionalization is in the offing for reasons given earlier, methods of prediction are on the way to usage. Frank A. Ross, Chairman of the Committee on Sentencing-Probation-and-Parole-Section of Criminal Law, American Bar Association, on August 13, 1951 at Madison, Wisconsin told an assembly of federal probation officers, that in the future each presentence report should have a recommendation. In the past most probation officers avoided giving a recommendation. If they are now to practice making recommendations, the greater objectivity of prediction tables will be one of their welcome defenses.

Perhaps, not too far around the corner is "Caught Anonymous" or some organization of ex-convicts for mutual uplift and prevention of recidivism. Experience with Alcoholic Anonymous in prisons seems to indicate that these have lower recidivist rates because of the inner strengths built up from social-group relationships. There is sound realism in one successful ex-convict advising another how to become law-abiding. Individual testimonies from prisoners tell of valuable lessons of behavior learned from association with inmates of character. Prisons are not completely "schools of crime."

Group therapy for offenders is already being used within prison-walls. The federal pre-release program is such an attempt. At the U. S. Public Health Service Hospital, group therapy is used for narcotic addicts.

2. Federal Probation, December, 1951, page 19.

Studies there seem to show that about 60 percent never return. With an emotional problem so deep-seated as addiction this is an encouraging gain. The writer has had the heart-moving experience of a 24 year old two-time addict ask him for an hour of conversation. On the first offense this youth was sent to an institution for cure without group therapy. After 6 months he was released on probation and within thirty days was re-addicted. His probation was revoked and he was sentenced. He did his full time at the U. S. Public Health Service Hospital, receiving group therapy there. He was released without supervision. After several days he came to the writer and said, "I know that I'm not a case of yours and have no claim on your time. But I wish there were group-therapy sessions on the outside like at that place. They helped me so much to understand, and not to feel so alone in my effort to be decent. Would you object to my coming in here and talking things over?" This is a testimonial in behalf of extramural group-therapy from an ex-prisoner in need.

Here and there isolated attempts have been made to bring offenders together for group life. The writer has had one of his most encouraging experiences, gathering together two to four probationers who knew each other, for a meal and a social evening of two to three hours. At one time he required three juvenile codefendants to report regularly to the office at the same time. These meetings developed into group discussion sessions of problems of living as they found them; what they did about them, how they failed, and how they succeeded. They were amazed that the probation officer had similar problems when he was their age. They had thought their troubles were unique. The technique developed *esprit de corps* and removed the feeling of stigma that offenders were different.

This therapy of fellowship has not yet been exploited in treating wrongdoers; but because man by nature is an aspiring gregarious being, in due season, it will be used as a corrective technique. This conclusion is based upon a somewhat common experience that in order to stay crazy be with the crazy in or out of an institution, but to become less crazy be with those who once were crazy. Those who never sinned find it more difficult to be helpful, because they do not fully understand the sinner.