

1973

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Recommended Citation

Carl B. Jr. Klockars, A Theory of Probation Supervision, 63 J. Crim. L. Criminology & Police Sci. 550 (1972)

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A THEORY OF PROBATION SUPERVISION

CARL B. KLOCKARS, JR.*

As the literature of probation demonstrates, a thoroughly eclectic discipline possesses an almost infinite capacity to generate the most diverse forms of theory. Probation students' published attentions to supervision include everything from afterdinner speeches to decision models. Speeches tell the reader a good deal about the speaker and decision models tell a good deal about the officer, but neither seems to capture what probation supervision is.¹ Decision models cannot be considered inappropriate since knowledge of decision-making is certainly of legitimate scientific concern. The speeches, as well as the dozens of articles which discuss the question of what probation supervision "ought to be," can be sympathetically interpreted as teaching theories. One cannot object to the treatment of probation problems at this level either. The vast majority of improvements in probation services has resulted, not from the scientific demonstrations of efficiency, but rather through the efforts of moral men from Augustus through Charles Chute and Rufus Cook to those who wish to enter the field with "oughts" today.

Our intention is to provide a description and analysis of the standard form of probation supervision.² To do so four elements must be considered. The first is the working philosophy of the officer—the way he sees his job and duties. The second is the organizational context in which the officer

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¹ Because what passes for probation supervision theory is so diverse, we shall not attempt any history of such efforts here. The best article on the subject is Lewis Diana's highly critical *What is Probation?*, 51 J. CRIM. L.C. & P.S. 189 (1960). It has received little attention and less rebuttal. A slightly watered-down version of it appears in PROBATION AND PAROLE 39-56 (R. Carter & L. Wilkins eds. 1970).

² The theory of probation supervision presented here was developed during two years of participant observation research in a large metropolitan probation office. Nearly one hundred officers supervised more than seven thousand probationers and parolees. The theory is a revised and expanded section of a restricted circulation monograph which the author composed for the department: *MAKE BELIEVE BUREAUCRACY: A CASE STUDY IN PROBATION* (Mimeo., 1970). All investigations were made with the full knowledge and consent of the department administration.

finds himself. The third is the legal and logical definition of revocation, and the fourth is the psychological approach of the probationer. It is our observation that each of these four components responds to movement in the other. As a result, any theory of probation supervision must not only cite each of these components but also specify the nature and mechanics of their interaction.

WORKING PHILOSOPHY OF THE PROBATION OFFICER

The first and broadest component of the theory of probation supervision is the role which the officer sets for himself and the logic and rationale he develops to explain what he does or what he ought to do. So pervasive is this component of probation supervision, it gives particular warp and depth to all other components. Our observations yield a typology of probation officer³ which falls roughly between the thesis, "Probation is not Casework,"⁴ and the antithesis, "Probation is Casework."⁵

*The Law Enforcers.*⁶ At the probation-is-not-casework pole we find officers who stress the legal authority and enforcement aspects of their role. Of prime importance to such officers are (a.) the court order ("His only job is to help the offender comply with the order of the court.");⁷ (b.) authority ("I will fully execute that authority but only that authority delegated to me by the court."),⁸

³ The typology we present is naturally a compromise with reality. We do not pretend that it captures all of what any officer is. Nevertheless certain characteristics of officer behavior and rationale can be separated and rendered meaningful for the ends intended here.

⁴ Blake, *Probation is not Casework*, 12 FED. PROBATION 54 (June 1948).

⁵ Meeker, *Probation is Casework*, 12 FED. PROBATION 51 (June 1948).

⁶ The terminology here is based in part upon titles and descriptions suggested for police officers in R. TAFT & R. ENGLAND, *CRIMINOLOGY* 321 (1964). Our categories are also similar to those suggested by Ohlin, Pivin, & Pappenfort, *Major Dilemmas of the Social Worker in Probation and Parole*, 2 NATIONAL PROBATION & PAROLE ASSOC. J. 211 (1956).

⁷ Hardman, *The Function of the Probation Officer*, 24 FED. PROBATION 4 (Sept. 1960). Hardman adds that he will "defend this definition before the parole board, the supreme court, or the angels in heaven."

⁸ *Id.* at 7.

(c.) decision-making power ("Once I have made a decision, I will steadfastly resist all client efforts to alter my decision by threats, tantrums, seduction, illness, etc.");⁹ (d.) officer responsibility for public safety ("It is the criterion of safety for society that will determine for the parole officer whether the level of adjustment achieved is acceptable or whether he is so dangerous to society that he must be removed from its midst and returned to prison.");¹⁰ and often (e.) police work ("What it simmers down to is police work. We're the policemen back of the agencies.");¹¹

While these characteristics are found in the officer at this pole of our typology, we must add that the philosophies and rationales which cause certain officers to gravitate to this pole are all too easily relegated to a "junior G-man"¹² model. One may find officers at this pole with examined philosophies which dictate that firmness, authority, and rule abidance are essentials of social life and ought to be enforced during the probation period. What will concern us however is that their behavior is unshakably law and rule-enforcing.

The Time Servers. For the purposes of our typology, time-serving officers are nearly the functional equivalent of the law enforcers. They comprise that category of probation officers who find no law-enforcing or casework vocation in probation. Instead, they see their jobs as having certain requirements to be fulfilled until retirement. They have little aspiration to improve their skills; they are not likely to attend seminars or training institutes, nor do they belong to professional associations. Their conduct on the job is rule-abiding and their job responsibilities are met minimally but methodically. Rules and regulations are upheld but unexamined. They don't make the rules; they just work there.

The Therapeutic Agent. At the other pole of

⁹ *Id.*

¹⁰ G. GIARDINI, *THE PAROLE PROCESS* 265 (1959).

¹¹ Officer opinion cited in Diana, *supra* note 1, at 199.

¹² An epithet common among officers studied by P. TAKAGI, *EVALUATION SYSTEMS AND ADAPTATIONS IN A FORMAL ORGANIZATION: A CASE STUDY OF A PAROLE AGENCY* 116 (unpublished Ph.D. dissertation at Stanford University, 1967). Social casework has only recently discovered the meaning of "authority" which sociology has classically held for it. As a turning point, one might suggest Fink's *Authority in the Correctional Process*, 25 *FED. PROBATION* 34 (Sept. 1961). See also D. DRESSLER, *PRACTICE AND THEORY OF PROBATION AND PAROLE* 170 (1969) for a recent attempt to re-define authority in such a way as to make it palatable to those who had learned it as a synonym for "authoritarianism."

officer role conception is the officer who considers himself a therapeutic agent. Here, the officer's role is emphasized in the administration of a form of treatment¹³ artfully "introducing the probationer to a better way of life"¹⁴ by the "motivation of patterns of behavior which are constructive,"¹⁵ by "giving support and guidance to those who are unable to solve their problems by themselves,"¹⁶ and by "providing an opportunity to work through his ambivalent feelings."¹⁷ This is accomplished through the use of knowledge of the offender history "analyzed in terms of psychological, physiological, and social factors,"¹⁸ "day-by-day analyses of recorded interviews (which) develop the kind of skill needed in the evaluation of the individual considered for probation,"¹⁹ and the loan of the officer's "own ego to the client's in the perception and appraisal of reality."²⁰ Charles Shireman has attempted to summarize this working philosophy as follows:

1. We take conscious pains in our every contact with the offender to demonstrate our concern about him and our respect for him as a human being.
2. We seize every opportunity to help the offender come to understand the nature of the shared, problem-solving, helping process by actually experiencing it.
3. We recognize, bring into the open, and deal di-

¹³ I have chosen to reproduce the rhetoric of the therapeutic agent to dramatize both the inseparability of form and content and the tenacious grasp on a sophistic identity which such an acrobatic rhetoric represents. A leading social casework theorist expresses this exactly as she shares with us some insights into "process":

In short, working from a process base the social worker conceives all phenomena as unique within classes or categories, as characterized by continuous change and direction toward an end, as embodying potential for such change which itself shifts in the course of time. He uses a process, a professional social work process, to affect processes, that is, the life process of an individual, group, or community, in order that the processes affected may have the best possible chance for self-realization in relation to a purpose which has brought worker and clientele together.

R. SMALLEY, *THEORY FOR SOCIAL WORK PRACTICE* 130 (1967).

¹⁴ Glover, *Probation: The Art of Introducing the Probationer to a Better Way of Life*, 15 *FED. PROBATION* 8 (Sept. 1951).

¹⁵ Gronewald, *Casework in Probation*, 39 *PRISON J.* 45 (Oct. 1959).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 43.

¹⁹ *Id.*

²⁰ *Id.* at 45.

rectly with the offender's negative attitudes toward us as the representatives of social authority.

4. We "partialize" the total life problem confronting the offender.
5. We help the individual perceive the degree to which his behavior has and will result in his own unhappiness.²¹

We find further that officers of the therapeutic agent type are likely to belong to professional associations, actively campaign for recognition of the professional status of probation officers, display various diplomas and certificates testifying to their skills, and speak in the argot of social casework wherever possible.

The Synthetic Officer. The fourth and final officer type in our classification is distinguished by his recognition of both the treatment and law enforcement components of the probation officer's role. His attempts at supervision reflect his desire to satisfy the arguments of both the therapeutic and law-enforcing agents. Thus, he sets for himself the active task of combining the paternal, authoritarian, and judgmental with the therapeutic. In so doing, he may unknowingly solve what is alleged to be the classical dilemma of corrections. The most common way of phrasing this dilemma is that, for therapeutic purposes, the probation officer must require the probationer to "tell all" but must also recognize that revelation of the wrong sort may result in revocation.²² Clearly, a central issue of probation supervision is the treatment-control dilemma and its resolution in the revocation decision.

REVOCATION AND THE LOGIC OF TREATMENT

Straightforward confrontation with the question of revocation should define a strategy of supervision, clarify it, and set its boundaries. For the law enforcer and time server the logic is simple—revocation should be recommended whenever the rules of probation are violated. The simplicity and directness of this answer are not available for those with a faith in probation as treatment.

Extensions of the logic of treatment demand not only that probation itself be a treating process but also that the officer be provided with therapeutic alternatives. Such a portrait of corrections

is painted when probation is treatment under supervision in society, when parole is more restricted training for social adjustment, and when prison is genuinely rehabilitative treatment which prepares the prisoner for reentry into society. When added to this portrait of corrections, such conceptions as the half-way house suggest an even smoother curve.

This, of course, is not the case. Probation cannot operate on the assumption of the rehabilitative nature of the prison. Instead it must operate on the assumption of the destructive nature of prisons, and, if it wishes to consider itself a treatment agency, probation must do so with the simultaneous recognition of non-therapeutic alternatives. In short, revocation must be viewed as the boundary of treatment and the beginning of its compromise.

Arguments to the contrary assert that penal institutions need not be treatment facilities *in se* but may be considered so *per se*. In a variation on a behaviorist theme revocation becomes a sanction, probation and parole become rewards, and the entire correctional process emerges as an extended shaping mechanism. This argument, however, is unconvincing. Few institutions, if any, have been able to demonstrate that their inmates profited from their stay there. On the other hand, modern penology has shown that institutionalization has a high probability of damaging the inmate and returning him to society in worse condition than when he entered. Even if the institutional experience itself is harmless, the loss of employment, separation from family, and label of convict are most likely to be harmful.

Recognition of the boundaries and compromise of treatment at revocation forces those who believe in treatment to adopt a single, consistent rationale for revocation. That rationale is that the probationer is dangerous to himself or others. Considering the nature of penal institutions, no other rationale is consistent with a faith in treatment.

Such a conception of revocation bears double-edged consequences for probation. While this conception is predicated upon a faith in probation as treatment, those who hold such a faith must advocate probation even when, in treatment, it is not successful. A treatment strategy of probation with the conception of revocation we have suggested must also provide the officer with both power to guide and control the probationer during treatment and definitions of desired conduct which direct and inform him. In addition, this

²¹ Shireman, *Casework in Probation and Parole: Some Considerations in Diagnosis and Treatment*, 27 *FED. PROBATION* 51 (June 1963).

²² See Ohlin, Pivin & Pappenfort, *supra* note 6, at 211-25.

power can only be acquired from revocation as a threat which will usually remain unfulfilled.

Probably much probation work is conducted by threats of revocation. Our observations confirm that threats are regularly used and carried out by time servers and law enforcers. However, as a strategy for the therapeutic or synthetic officers, threats seem to dissolve quickly because with the single "clear-and-present-danger" exception they are not carried out. Nevertheless, for the majority of probationers who do not seem to break the rules of probation anyway the simple threat-of-revocation strategy probably works as well as any other.

The central problem which remains is the resolution of genuine treatment and control in an effective supervision strategy. Our observations suggest that such a resolution does exist. This resolution is removed from the boundaries of revocation. It gains its strength from the definition of the officer-probationer-department triad. It is slow to degenerate and operates on the medium of exchange.²³

A THEORY OF PROBATION SUPERVISION

The strategy of exchange is only implicitly understood by officers who employ it. Nevertheless, it seems to be applied by all officers of the synthetic type. We know of no other form of supervision in which the synthetic officers' aspirations can be satisfied. Let us first present diagrammatically the parties involved in probation supervision:

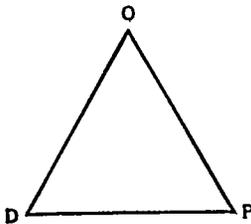


FIGURE 1: Supervision Triad

wherein O represents the officer; P, the probationer; and D, the department. Let us now look sequentially at the way in which the bonds of the triad are completed.

The Initial Interview. The first meeting between the probationer and the officer serves to define the components of their relationship. It defines

²³ The notation used in our theory is roughly appropriated from F. HEIDER, *THE PSYCHOLOGY OF INTERPERSONAL RELATIONS* (1958).

not only the restrictions which will be placed upon the probationer, but also suggests the medium of exchange through which exceptions may be sought. The initial interview regularly includes an explanation of the rules and regulations by which the probationer is expected to live. These may range from requirements such as seeking permission to marry or obtain a pilot's license, to technical violations such as using alcohol or frequenting places of probable criminal association.²⁴ In the department which we studied, many of these rules may be printed and distributed to the probationer. Here, the probation officer functions as an officer of the court. Our triadic diagram is now rendered as:

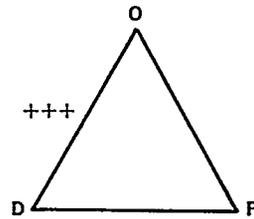


FIGURE 2: Supervision Triad

indicating the officer's responsibility to the department and its regulations.

The second substantive component of the initial interview is an extension of aid, assistance, and guidance by the officer to the probationer. Statements and assurances such as "I am here to help you," "Your problems and difficulties are my responsibilities as well," and offers of referral for employment, family, medical, or psychological counselling characterize this component. While our observations reveal a wide variation in the style of such offers, all are intended to show interest and give assistance. Consequently, we may now complete the officer-probationer bond in our diagram as:

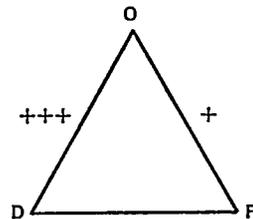


FIGURE 3: Supervision Triad

²⁴ Arluke, *A Summary of Parole Rules: Thirteen Years Later*, 15 *CRIME & DELINQUENCY* 267 (1969).

if the officer is able to convince the probationer of the sincerity of his interest.

At this point we have not yet completed the bond between the department and the probationer. It is the most critical bond in the triad because its completion resolves the treatment-control dilemma. As we have suggested above, the problem of the synthetic officer is that he bears two compelling but patently inconsistent roles, one or both of which are denied by other officer types. Such a problem is authentic and our initial observations and interviews in the department were bent upon articulating it. Remarkably, in our search for the classical dilemma of corrections, logically expressed in the role of the probation officer, we found no evidence of its existence. Watching, participating in, and discussing case relationships suggested to us that for probation it was a logical reality but a sociological fiction. The synthetic officer is able to dispose of it by including a managed reality of the "department" in the case relationship. In order to clarify this last statement, we report the responses of two synthetic officers to the question, "How can you tell a probationer that he should bring his problems to you and tell you honestly about the difficulties he is having when he knows that if you find out too much you can lock him up?"

Officer One: "I tell my probationers that I'm here to help them, to get them a job, and whatever else I can do. But I tell them too that I have a job to do and a family to support and that if they get too far off the track, I can't afford to put my job on the line for them. I'm going to have to violate them."

Officer Two (A Narcotics Specialist): "From the beginning I tell them what the rules are. They know, though, that more than anything else I require that they be honest with me. And they know too that if they're honest with me, (and I can tell if they're not), I won't screw them."

In each of these statements the controlling element of the officer's role is transferred to the department. In the first, the officer claims that his evaluation and position are at stake. In the second, the officer further separates himself as the mediator between departmental rules and the probationer. We may observe that "screwing the probationer" means reporting information which would be negatively judged by departmental standards. Because the department is designated as a distinct participant in the case relationship, one which bears the sanctioning and authoritative

responsibility, we can now complete our triadic diagram of the initial phase of probation supervision:

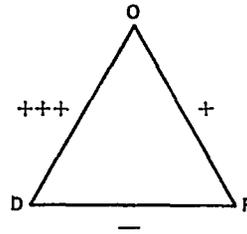


FIGURE 4: Supervision Triad

THE ORGANIZATIONAL CONTEXT AND THE RULES OF PROBATION

Before we extend our theory to include the development of the relationship which our diagram signifies, it is appropriate to ask to what extent "the department" corresponds to the benevolent-but-unyielding-despot role ascribed to it. To free us, at least in part, from the real differences between departments, we can observe that no single philosophical position exists to which the field of probation is committed. Consequently, value positions are not closed and substantive evaluation is not logically possible.²⁵

Since the illogic of evaluations has been of little concern to more sophisticated fields of study than probation, an examination of the rules of probation and the officer's discretion with respect to their application is more compelling. We shall consider three aspects of the rules of probation in their organizational context. First, probation rules are generally silly. If they were taken seriously, very few probationers would complete their terms without violation. Among prohibitions are liquor usage, gambling, indebtedness, and association or correspondence with "undesirables." Among permissions necessary from the officer are marriage, change of employment, and travel out of the com-

²⁵ This is in part the thrust of P. TAKAGI, *supra* note 12, whose research attempted the exploration of evaluative discrepancies suggested by Scott, *Organizational Evaluation and Authority*, 1967 *ADMIN. SCI. Q.* 93. The problem of evaluation of the probation officer's performance is elegantly assumed under Herbert Simon's observation more than a quarter of a century ago:

There is one important difference between permitting a subordinate discretion over a value premise and permitting him discretion over a factual premise. The latter can always be evaluated as correct or incorrect in an objective, empirical sense. . . . To a value premise . . . the terms correct and incorrect do not apply.
Simon, *Decision Making and Organizational Authority*, 4 *PUB. ADMIN. REV.* 18 (1944).

munity. Among requirements are curfews, treatment for venereal disease, and church attendance.²⁶ Arluke's evaluation of them is worth repeating:

Some parole conditions are moralistic, most are impractical, others impinge on human rights, and all reflect obsolete criminological conceptions. On the whole they project a percept of a man that does not exist.²⁷

Secondly, because of the nature of the rules, strict administration of them is tempered both by the officer's access to information of violations and by an attitude of reasonableness toward vigorous enforcement. Beyond this, however, at least two authors in professional publications suggest that probation rules are to be thought of only as flexible guidelines.²⁸ A final point in reference to rule violation and departmental hegemony is that the vast majority of information about a probationer's conduct can only be provided by the officer. Thus, even if rules were practical and even if they were stipulated as inflexible and indiscriminate, the officer would still have the option of providing (albeit at his own risk) the information upon which they could be applied. This third aspect of the character of probation rules in their organizational context is salient even under present conditions. It is possible for an officer to "screw" his probationer.

The implication of these observations is that the "department," as the genuine bearer of the authority and control components of the officer role, is to no small extent a fiction. The rules, their application, and their dismissal are largely a matter of the discretion of the officer, who, with very little personal risk, may conceal or permit their violation.

EXCHANGE STRATEGY AND THE DEVELOPMENT OF SUPERVISION

The fictional nature of the rules of probation in their organizational setting, combined with the synthetic officer's artificial manipulation of "the department," introduce properties to the case relationship which not only increase the officer's control but also suggest patterns of case development. If we adopt a market analogy, the probationer can be considered a consumer who

wishes to purchase the completion of his term. In the triadic relationship which the synthetic officer structures, the probationer is provided with two currencies. The first is compliance with the rules of his probation. In following such rules he purchases his completion by demonstrating what is thought to be satisfactory social maturity. If he can complete his term without violation, he will have little need to draw upon the second currency which is available to him.

This second currency may be called rapport. It consists of appeals for aid, assistance, or understanding combined with the confession of problems. For those probationers who are helped by probation, it is the stuff of which counselling is made. Honest counselling is possible in this case because, analogically, the department and officer are different sellers. What cannot be purchased from the department with rule compliance can be purchased from the officer with rapport.

The analogy of two sellers which the probationer perceives, however, is only an illusion. He is dealing with a near-perfect monopoly. The officer controls the definitions and resulting permissions. He is able to dramatize his own separation from his departmental superego by techniques ranging from forceful re-statement ("These are the rules. I didn't make 'em; you didn't make 'em, but we both have to live with 'em.") to revelation of his own jeopardy ("My supervisor is on my neck over what I'm letting you get away with."). While maintaining the separation, he may also grant exception ("I'm going to go out on a limb for you.") or express charity ("You were right to tell me the truth. We can work on it together and keep what happened between ourselves.").

Practically, the officer who holds such a monopoly has two advantages. First, he is capable of creating "false bottoms" on the availability of pardons for violations. The criteria for satisfactory conduct can be set at virtually any level. The officer's definitions are perceived as those of the department. Secondly, the officer is able to adjust those false bottoms, while giving the impression of following departmental policy.²⁹

In terms of our original diagrams, the serial development of probation supervision, structured

²⁹ A complication intrudes here when the decision to revoke probation is genuinely considered. It is that a consideration of the judge's criteria for granting a revocation must be made by the officer. If the judge refuses to grant revocation when requested by the officer, the officer not only loses face but also destroys any chance of regaining rapport.

²⁶ Arluke, *supra* note 24, at 265.

²⁷ *Id.* at 269.

²⁸ DiCerbo, *When Should Probation Be Revoked?*, 30 *FED. PROBATION* 11 (June 1966); D. DRESSLER, *supra* note 12, at 254.

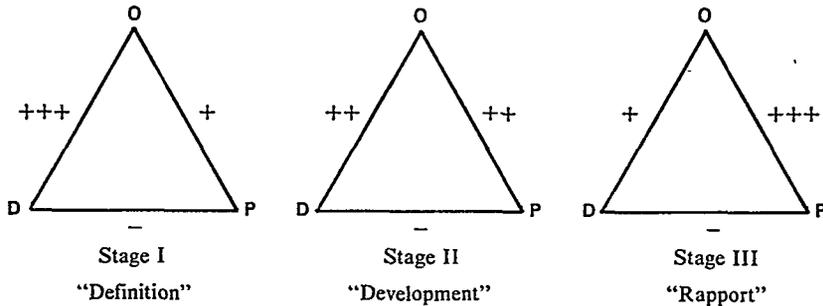


FIGURE 5: The Development of Probation Supervision

in the manner suggested, can be signified as shown in Figure 5. The exchange of signs from the O-D bond to the O-P bond represent the primary process exchange of permission for rapport as the case relationship develops. This exchange is predicated upon the recognition of some difficulty in abiding by the defined rules. In the absence of this difficulty, probation is essentially perfunctory and there are no structural reasons for the supervision relationship to develop beyond Stage I. Other roles may develop based upon personal attraction, interests, or mutual experience, but from the reference of an officer and a probationer they are incalculable. Consider, for example, the officer who learns about jazz from a musician probationer.

While the transfer of signs represents the primary process of exchange, that is not all it represents. In addition, the officer adds to the bargain an apparent change in his fidelity to the department. He can no longer be simply an agent. In light of the investment which he makes for rapport with the probationer, he cannot maintain for the probationer's eyes the same strength of attachment to his officer position. He may, of course, still hold it, but, in effect, he says that the job and the rules are secondary and the man is what really matters.

Consequently, we have represented the bond between the officer and the department as minimal in the final stage. In some cases, where an apparent team of officer and probationer develops against department rules, this minimally positive bond is indeed an overstatement.

DISCUSSION

Several theoretical analyses of structurally similar positions give formal credence to the conception we have developed here. Perhaps the broadest of these is Simmel's analysis of the respective

characteristics of the dyad and triad. Critical¹ is Simmel's observation that:

The dyad represents both the first social synthesis and unification and the first separation and anti-synthesis. The appearance of the third party indicates transition, conciliation and abandonment of absolute contrast. . . .³⁰

According to Simmel, the triad offers the advantage of non-partisanship and mediation roles. This is the intent and result of the inclusion of "the department" in the case relationship. Simmel claims further that the triad transforms the nature of conflict from its invariably personal quality in the dyad. He observes:

A third mediating social element deprives conflicting claims of their affective qualities because it neutrally formulates and presents these claims to the two parties involved. Thus the circle that is fatal to all reconciliation is avoided: the vehemence of the one no longer provokes that of the other³¹

In the triadically-structured case relationship the officer need never come into direct personal conflict with his probationer. He can claim to be only the objective reader of departmental regulations. Furthermore, the quality of the officer's affective responses can only be interpreted as partisan to the probationer's interests.

One can find similarly structured analyses of specific occupations. The most famous is the foreman. Various called a "marginal man of industry,"³² "the man in the middle,"³³ and a "master

³⁰ G. SIMMEL, *THE SOCIOLOGY OF GEORG SIMMEL* 145 (K. Wolff, transl. & ed. 1964).

³¹ *Id.* at 147.

³² Wray, *Marginal Man of Industry: The Foreman*, 46 *AM. J. SOCIOLOGY* 298 (1949).

³³ Gardner & Whyte, *The Man in the Middle: Position and Problems of the Foreman*, 1945 *J. APPLIED ANTHROPOLOGY* 1.