

Journal

Probation

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Burt Galaway*

Identifying the Actual and Preferred Goals of
Adult Probation *Thomas Ellsworth*

Sharing the Credit, Sharing the Blame: Managing
Political Risks in Electronically Monitored
House Arrest *James L. Walker*

Guns and Probation Officers: The Unspoken
Reality *Paul W. Brown*

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the Promise of Individualized Juvenile
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This Issue in Brief

Community Service: Toward Program Definition.—Over the past two decades, community service work order programs have been established at various points in the adult and juvenile justice systems. On the basis of detailed study of 14 community service programs, authors Joe Hudson and Burt Galalway describe a detailed community service program model. Key elements of program structure are described, including inputs, activities, outputs, and outcomes, along with their linking logic. According to the authors, preparation of this type of program model is a necessary prerequisite for sound management practices, as well as for developing and implementing program evaluation research.

Identifying the Actual and Preferred Goals of Adult Probation.—The field of adult probation has undergone considerable change over the last 10 years, reflecting a perceived public sentiment which emphasizes enforcement and community protection. As a result, the goals of probation have shifted. Based on a survey of adult probation professionals in two midwestern states, author Thomas Ellsworth confirms the existence of a dual goal structure in probation, encompassing both rehabilitation and enforcement. Further, the study results reveal that probation professionals prefer a dual goal structure in administering probation services.

Sharing the Credit, Sharing the Blame: Managing Political Risks in Electronically Monitored House Arrest.—For the last several years, electronically monitored house arrest has been the topic of extensive commentary in the literature. Scant attention, however, has been paid to the political environment in which such programs must exist. Using a brief case study of one county in Ohio, author James L. Walker suggests a four-part implementation strategy aimed at reducing the risks to the political actors involved in these programs. He concludes that

only if political considerations are properly managed will efficient and legitimate use of electronic monitoring programs be likely.

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Guns and Probation Officers: The Unspoken Reality

BY PAUL W. BROWN*

LITTLE HAS been published in the professional literature about the armed probation and parole officer (Brown, 1989). The academic world has largely ignored the issue of carrying firearms, perhaps because of the general perception that the probation and parole officer's role is as a counselor or even advocate of the probationer or parolee. This helping role was the image presented in the landmark Supreme Court case of *Gagnon v. Scarpelli* (1973). Supervision was seen as successfully working with the offender in the community. "The parole officer's attitude towards these decisions [revocation] reflects the rehabilitative rather than punitive focus of the probation/parole system. . ." (p. 785).

The Court's perception was undoubtedly shaped by the existing literature which rarely mentioned guns in conjunction with the officer's role. Glaser's (1969) research examining the role of the parole officer is a prime example of such omission: The issue of guns never comes up.

The "social work" approach to supervision still prevailed several years later, when Cromwell et al. wrote in their college text on probation and parole:

Supervision, in more modern terms, might be defined as planned guidance based upon a careful study of the needs, problems, capabilities, and limitations of the client. It utilizes all available community resources—social, educational, recreational, and religious—to aid offenders to change their patterns of behavior and become law abiding citizens.

Supervising the probation or parole client must be goal oriented, and directed toward removing or reducing individual and social barriers that may result in recidivism.

This article focuses on how the issue of firearms for probation and parole officers has been addressed—however fleetingly—in the literature. A case history of the firearms policy of a Federal probation district is also presented, as is the development of the Federal Probation System's national policy.

The Early Research

Abadinsky, with a 1975 survey of 53 adult parole agencies, was a pioneering researcher in

firearms issues. Referred to in detail in Keve's 1979 article; Abadinsky's survey reveals that of 53 responding jurisdictions; 8 encouraged weapons, 16 discouraged, and 29 or 54.7 percent prohibited weapons (Keve, 1979, p. 432). Further, Abadinsky's third edition text on probation and parole, published in 1987, is exceptional inasmuch as in the text, Abadinsky strongly advocated arming officers, contrary to the conventional wisdom. He wrote that probation and parole officers cannot adequately do their job unless they are armed (p. 295). In obvious anticipation of the critics who would say that treatment would be affected, he stated:

Do arrest powers and the carrying of a firearm interfere with the p/p officer's ability to form a relationship with which to provide treatment? I am of the opinion that they do not. Indeed, because of the p/p officers' relationships with their clients, in delinquency situations, they are able to effect an arrest without the tension and hostility that often accompanies arrests made by other law enforcement officers. However, whether or not the p/p officer actually makes the arrest, the client knows that the p/p officer initiated the warrant action (p. 296).

Perhaps Abadinsky's pro-gun stance developed during his 15 years as a New York State parole officer.

Four years after Abadinsky's survey, Paul Keve (1979) conducted a two-part survey. Questionnaires were sent to the top administrators of all 50 state probation and parole agencies as well as the District of Columbia and several large local agencies. Also, a more detailed questionnaire was sent to the officer staff of the Virginia probation and parole agency (p. 426). With respect to the 59 agencies in the national survey, Keve found that 11 (17 percent) allowed weapons, 15 (25 percent) permitted limited arming, and 33 (66 percent) prohibited firearms (p. 430). Virginia prohibited weapons; however, 71 percent of the officer respondents in that survey felt that they should have the option to carry weapons, and 21 percent said that they carried weapons in violation of policy (p. 431).

Keve's research led him to the conclusion that the agencies' operation philosophies—case work or control—appeared to have the most influence on whether or not the officers preferred to carry firearms. He warned that mixed messages could cause problems. For example, an agency which insists upon enforcement functions but prohibits

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officers from being armed could cause serious morale problems (p. 434).

Such role conflict has long been assumed in the probation and parole field but not proven, according to Sigler and McGraw (1984), who state:

More specifically, role conflict is said to occur when an individual is subjected to two or more contradictory expectations whose stipulations the individual cannot simultaneously meet in behavior. In the case of probation and parole officers, the expectations held by their immediate supervisors, the Board of Pardon and Parole, local judges, defense attorneys, district attorneys, law enforcement personnel, their colleagues, and the general public may be so diverse and contradictory that the officers may feel they cannot possibly meet these expectations (pp. 28-29).

Sigler and McGraw observed that Abadinsky, who advocated arming parole officers, perceived role conflict because a majority of agencies authorized officers to make arrests but many prohibited firearms (p. 29). Keve, in contrast, did not advocate the arming of officers, per se, but suggested that the agency's philosophy be made clear, i.e., either law enforcement or treatment, and that the agency have a gun policy consistent with that philosophy (p. 30).

Sigler and McGraw conducted their study on adult probation and parole officers in Alabama where the officers are state peace officers. Although they were authorized to carry weapons, it was not looked upon favorably by the administration. In 1978, the Alabama attorney general recommended that all probation and parole officers be given full peace officer training which included firearms training. The officers are paid hazardous duty pay, must qualify annually with their weapons, but are not required to carry their weapons (p. 31).

The authors' study was designed to make an empirical determination as to the existence of role conflict between treatment and enforcement expectations. Before 1978, treatment was given priority, and after 1978, the role definition included both treatment and enforcement. The study found that role conflict was not "strongly associated with weapon use." As might be expected, they found that the enforcement-oriented officers carried their weapons more than the treatment-oriented ones (p. 32).

In addition to the early researchers who directly addressed armed probation and parole officers, other researchers documented the disenchantment with the rehabilitation model of corrections and the move to control and surveillance models of community supervision (Hofer & Meierhoefer, 1987; Petersilia, 1985; and Stewart, 1986). Research by Harris, Clear, and Baird (1989, p. 242) suggests that probation and parole officers are

more concerned with authority than assistance or treatment. California is a good example of a state with a parole system which, with the swing of the pendulum toward control, begrudgingly armed its agents.

The New Realities

California has frequently been a trend setter in many fields, including corrections. Abadinsky applauded California's involuntary decision to arm its parole agents as a very positive, substantial change. Prior to the formal authorization, California agents frequently either resisted fulfilling their enforcement duties or carried firearms in violation of agency policy (Abadinsky, p. 294). The state parole agents association took the initiative and sued the agency for the right to carry firearms in *California State Employee's Association and Charles Swim v. J.J. Enemoto et al.*, 53863 Superior Court, Shasta County (August 17, 1978), and were legally armed for the first time following the agency's unsuccessful appeal in 1979 (Keve, p. 431).

Jones and Robinson (1989) based their research on arming probation and parole officers on the Oklahoma Department of Corrections' (DOC) 1986 national survey of weapon control policies. Among the findings were that 48 percent of the probation and parole agencies responding permitted officers to carry firearms on duty, and 24 percent reported officers were routinely armed (p. 88). Although Oklahoma state probation and parole officers had previously been permitted to carry firearms, in 1987 the firearms policy became restrictive due to seven non-injury incidents of firearm misuse between 1982 and 1986. The broad-based, strong reaction from the probation and parole officers, supported by family members, the employee association, and law enforcement organizations, caused the Oklahoma authorities to subsequently reconsider their decision (pp. 88-90):

While the purchase of weapons for permanent assignment to officers appeared to mitigate the controversy, the emotions surrounding the policy changes of 1987 remained raw. Officers were still confused as to why a position that required a college degree, seven weeks of intensive pre-service training, DOC commissioned peace officer status, and daily office and field contact with felony offenders did not carry with it the trust involved in allowing officers to carry personally owned handguns.

Much of the available research reinforces what many probation and parole officers have known for years: Many officers want the right to carry firearms. A favorite saying of many officers who are not authorized to carry firearms is that they would rather be judged by 12 than carried by 6.

The history of firearms in one Federal proba-

tion district follows.

The Southern District of Texas

The Southern District of Texas judicial district was formed in 1902 and was the last of four judicial districts formed in Texas. It was not until 1938 that the district was authorized a second judge to serve a district that covered the area from Houston to Brownsville to Laredo, an area of approximately 42,500 square miles. As of 1989, there were 12 judges, 2 senior judges, and 8 full-time magistrates.

The first salaried probation officer in the district was J.M. Stonecipher, who was appointed about 1931 by Judge Kennerly when the district was still a single-judge district (Miggins, 1989a). As personnel records provide little information about early appointees, information on them comes from the memories of past and current court family employees.

In a report dated June 30, 1933, Officer Stonecipher reported on his workload, stating that he had 600 probationers and parolees under active supervision as of July 1, 1932, and ended with 789 remaining under active supervision as of June 30, 1933. Although little was available about Officer Stonecipher, he did—according to former Chief U.S. Probation Officer Lawrence Miggins—carry a firearm (Miggins, 1989b).

Harold Jefferies was one of the first, if not the first, Federal probation officer in the Brownsville division which is located in the district's southern border section on the tip of Texas. He came to Federal probation from the U.S. Marshals Service where he had been dismissed following a change in administration.

No appointment date is known for Jefferies, an anglo who spoke perfect Spanish and who was known as "Jarito." However, Senior U.S. Circuit Judge Reynaldo G. Garza remembered that in the summer of either 1935 or 1936 while still in graduate school, he chauffeured Officer Jefferies who suffered from failing eyesight (Garza, 1989). Judge Garza clearly remembers that Jefferies was at all times with a handgun.

When Lawrence Miggins started as a probation officer in 1955, he was one of five officers in the district, and he recalls officers carrying firearms (1989a&b). Alfred Crixell was appointed a probation officer in October 1968 when there was a total of six other officers in the district. Officer Crixell, who had previously been an agent with the Federal Bureau of Investigation (FBI), said he carried a gun from the very beginning, although there were no known formal gun policy or train-

ing requirements (Crixell, 1989). According to Judge Garza, the consensus of the judges in the district was that whether or not to carry a firearm should be left to the discretion of the probation officer. He also noted that no one ever challenged the right of a Federal probation officer to carry a firearm in spite of questionable legal authority to do so.

The National Perspective

National policy regarding firearms was somewhat limited until 1975. The earliest reference to firearms in the Federal Probation System appeared in the November 1935 issue of *Ye News Letter*, an early house organ of the system. The article noted that U.S. Probation Officer Joseph Delozier, district not specified, died on September 9, 1935. He apparently was beginning a supervision trip and, "while getting out of his car, dropped his revolver which fell on the hammer, discharged a bullet that caused his life to ebb away within the hour."

The *United States Probation Officers Manual* published in 1949 addressed firearms: "[I]n absence of cogent reasons to the contrary, probation officers should not carry firearms either in their cars or on their persons while engaged in their official duties" (p. 2.4). To put things in perspective, FBI agents were not legally authorized to carry firearms until 1934 (Klafka, 1989).

It was not until the March 1975 session of the Judicial Conference (Reports of the Proceedings, March 1976, pp. 20-21) that a firearms policy for probation officers was officially adopted as a Judicial Conference resolution. The Conference, the policy-making arm of the Federal courts, had begun looking at policies in 1973 and initially considered proposing a statute. However, the Conference ultimately decided on a policy statement which remains to date the officers' official authorization to carry firearms:

It is the policy of the Judicial Conference of the United States that probation officers should not be permitted to carry firearms in the performance of their official duties unless an assignment, in the judgment of the chief probation officer or the district judge, subjects a probation officer to serious risk of physical harm and the services of a law enforcement officer in accompanying the probation officer would not be appropriate in the opinion of the chief probation officer.

The policy statement continues with the conditions under which a probation officer may carry a firearm: The state law permits it; the probation officer has presented a reasonable justification to carry to the chief; the permission of the chief has been granted in writing; and the chief judge has been given written notice and does not object

within 48 hours. Additionally, the officer must be properly trained and qualified, must use the firearm only in self defense, must report in writing within 24 hours of the discharge of the firearm, and the chief must send copies of discharge reports to the chief judge and to the Administrative Office of the U.S. Courts. The March 1975 firearms policy was extended to cover pretrial services officers (Conference Report, Sept. 1985, p. 64).

District Authorization

In a letter dated November 11, 1975, addressed to former Chief Probation Officer Lawrence Miglias, Chief Judge Reynaldo G. Garza officially authorized officers in the Southern District of Texas to carry firearms:

I hereby authorize you to instruct all of your Probation Officers that they may carry a weapon in their brief case or the glove compartment of their car when they feel they are entering a threatening situation in the field. Further, when in their opinion it is absolutely necessary, they may carry a firearm on their person. The carrying of firearms on their person would only be allowed, however, when there are cogent reasons for doing so.

This official policy then led to the development of an intradistrict training and qualifications program.

Holman Gregory, a former county district attorney investigator and FBI agent, became the district's first official firearms instructor from 1976-77 (Gregory, 1989). The National Rifle Association (NRA) police firearms program was used in conducting classes and range practice. Before that, probation officers would generally qualify, if at all, with another Federal agency such as the FBI or the U.S. Marshals Service. According to Gregory, the Southern District of Texas was the first district in the Federal Probation System to have an internal firearms program, and there are indications that he is correct (Brown, 1989b).¹

Dan Beto, now the chief probation officer for Brazos County Adult Probation, became the next firearms instructor from early 1977 until August 1979 (Beto, 1989). He continued the practice of using the NRA police firearms program, a program which was used until 1987 when a national program was adopted.

The district firearms program became most organized when Reynaldo Adame took over in 1979. On his own time and at his own expense, Adame attended an NRA firearms instructor school (Adame, 1989). He traveled to the various division offices in the district to provide training and conduct qualifications. Initially Officer Adame was the sole firearms instructor, but gradually instructors in the division offices were trained

largely via the FBI's police firearms instructors program and usually certified by the NRA. Officer Adame became the chief firearms instructor and coordinator for the district.

Weapons had to be purchased by the officer, as they do today, and the primary restriction was that the weapon had to be a .32 calibre or larger. The preferred holster was a hip model, directional draw with a thumb break safety strap. There were periodic qualifications, usually semiannual, and the weapon was only to be used for self-defense.

The National Firearms Program

Perhaps because so many districts were becoming armed, the Probation Division of the Administrative Office in Washington, DC decided to standardize policies and training. In 1987, the Probation Division, with input from the field, developed a firearms training program, and in the same year the program was approved by the Probation Committee of the Judicial Conference (Donnelly, 1989). Two 2-week instructor training sessions were conducted in Birmingham, Alabama, and Galveston, Texas, during August and September 1987, respectively. The training was conducted primarily by the FBI and the Administrative Office of the U.S. Courts. Of the 55 districts that were authorized to carry firearms, 47 became certified under the new program (Chamlee, 1987).

According to the Probation Division, only Division-certified instructors can provide firearms instruction and requalification for the districts. If a district does not have a certified instructor, the district must borrow one from a district that does. The firearm is limited to a revolver which will fire a .38 special cartridge, and ammunition is limited to a 38 special 158 grain +P lead hollow point cartridge (Chamlee, 1988).

The Probation Division has developed a 54-page instructors manual along with handouts and overhead projector transparencies. The initial training consists of approximately 1 day of classroom instruction and 2 days of range practice. The new program went into effect with the next regularly scheduled qualifications session of the district following the instructors' training in 1987. All officers had to be exposed to the new classroom training program regardless of previous experience or qualifications. A new officer or previously unqualified officer would also have to fire approximately 450 rounds in the initial training phase. Subsequent requalification consists of two courses of 50 rounds each. One of the initial requalification courses was revised in June 1988

to include a 25-yard firing station. Previously, the longest distance had been 15 yards because most law enforcement shootings take place at close quarters.

Many of the previous standards of the Southern District of Texas training program are part of the new program. Permission to carry must still be requested pursuant to the 1975 Judicial Conference policy which did not change: The firearm is to be used only for self-defense, and any duty use of the firearm must be reported in writing. The major changes were a standardized weapon and ammunition, a more formal classroom training presentation, and more extensive range work. The national policy mandates requalification at least annually. The Southern District of Texas has continued semiannual requalifications; however, some districts have chosen quarterly requalifications. Currently, of the 88 officers in the Southern District of Texas, 60 or 68 percent are qualified to carry firearms.

Conclusion

There is strong evidence that probation and parole officers have significant interest in carrying firearms, and many either are authorized to carry firearms or do so in violation of law or policy.

In the Federal system, approximately 65 percent of the probation districts permit officers to be armed. The Southern District of Texas is one such district, a district which since its inception has had armed officers and which currently has approximately 70 percent of its officers armed. Nationally, officers have not abused the authority to carry arms: The Probation Division in Washington, DC, since it has been keeping incident reports, has record of one incident of a Federal probation officer firing a weapon on duty.

As increasingly dangerous offenders are placed on supervision due to prison crowding and as more emphasis is placed on control and surveillance, more probation and parole officers will undoubtedly become armed. A review of the literature regarding the arming of probation and parole officers reveals little, except the considerable interest among officers in having the right to be armed. In that that fact and its implications remain largely unaddressed in the literature, more research is needed.

NOTE

¹Inquiry was made, through the Federal Probation System's newsletter, as to whether any office had established a firearms program earlier. No response was received.

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