



1-1-1975

Attorneys as Friends out of Court: An Examination of the Santa Clara County Volunteers in Parole Program

Gilbert Gies

Steven J. Simmons

Monahan

DuffZwald

Follow this and additional works at: <http://digitalcommons.law.scu.edu/lawreview>



Part of the [Law Commons](#)

Recommended Citation

Gilbert Gies, Steven J. Simmons, Monahan, and DuffZwald, *Attorneys as Friends out of Court: An Examination of the Santa Clara County Volunteers in Parole Program*, 15 SANTA CLARA LAWYER 817 (1975).

Available at: <http://digitalcommons.law.scu.edu/lawreview/vol15/iss4/2>

This Article is brought to you for free and open access by the Journals at Santa Clara Law Digital Commons. It has been accepted for inclusion in Santa Clara Law Review by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact sculawlibrarian@gmail.com.

ATTORNEYS AS FRIENDS OUT OF COURT: AN EXAMINATION OF THE SANTA CLARA COUNTY VOLUNTEERS IN PAROLE PROGRAM*

Gilbert Geis,^a Steven J. Simmons,^b John Monahan,^c
Duff Zwald,^d and Howard Bidna^e

INTRODUCTION

This article does not concern litigation nor deal with matters which traditionally fall within the definition of legal work. Rather, it provides descriptive and evaluative information about a project, called Volunteers in Parole (VIP), which involved members of the Santa Clara Barristers' Club in a public service program designed to help wards of the California Youth Authority (CYA) adjust more successfully to life outside penal institutions. The program asked the volunteer attorneys to spend a minimum of six hours a month¹ providing whatever emotional

© Copyright, 1975, by Gilbert Geis. All rights reserved.

* The preparation of these materials was financially aided by a federal grant from the Law Enforcement Assistance Administration (LEAA) and the California Council on Criminal Justice (CCCJ) under the Omnibus Crime Control and Safe Streets Acts of 1968, as amended. The opinions, findings, and conclusions in this report are those of the authors and are not necessarily those of CCCJ or LEAA. CCCJ reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish and use these materials, and to authorize others to do so.

Besides the funding agencies, the authors wish to express their appreciation to Jeffrey Wheeler and Ed Andrus for conducting many of the interviews with San Jose program participants, and to Melinda Card for clerical assistance.

^a Professor, Program in Social Ecology, University of California, Irvine; B.A., 1947, Colgate University; Ph.D., 1953, University of Wisconsin.

^b Assistant Professor, Program in Social Ecology, University of California, Irvine; B.A., 1968, Cornell University; J.D., 1972, Harvard Law School. Member, California and Federal Bars.

^c Assistant Professor, Program in Social Ecology, University of California, Irvine. B.A., 1968, State University of New York at Stony Brook; Ph.D., 1972, Indiana University.

^d First-year student, Boalt Hall, University of California, Berkeley; B.A., 1975, University of California, Irvine.

^e First-year student, School of Law, University of California, Los Angeles; B.A., 1975, University of California, Irvine.

1. Although six hours may not appear to be much time, it should be compared to the average of one hour per month that Youth Authority parole agents spend with each person assigned to them. Interview with George Hopkins, super-

support, friendship, information, or other assistance they could—short of entering into an attorney-client relationship—to help Youth Authority wards on parole² live law-abiding and, hopefully, personally satisfying lives.³

The attorneys participating in the project were expected to gain a more sophisticated understanding of correctional programs, correctional workers, and young law breakers. The program would also expose lawyers to the problems of persons in social classes not normally a part of a lawyer's friendship network. Intimacy does not invariably lead to empathy and goodwill;⁴ indeed, the more persons come to know one another, the

vising parole agent, California Youth Authority, in San Jose, California, Feb. 23, 1974.

2. *Parole* is a procedure by which prisoners are selected for release and a service by which they are provided with necessary controls, assistance, and guidance as they serve the remainder of their sentences within the free community.

AMERICAN CORRECTIONAL ASS'N, MANUAL OF CORRECTIONAL STANDARDS 114 (1966).

Supervision, the primary function of the parole officer, was described in the following way by the President's Commission on Law Enforcement:

Supervision consists basically of a combination of surveillance and counseling, drawing partly upon the methods identified with social case-work, but distinguished by the need to enforce authoritative limits and standards of behavior. Offenders are put on probation or released on parole subject to certain conditions: That they stay out of trouble; that they maintain regular employment or stay in school; that they not drink or use narcotics; and usually that they obtain permission for such steps as getting married, changing jobs or residence, or leaving the jurisdiction. The probation or parole officer's first duty is to "keep track" of his cases and see that they comply with these conditions. Often he has little time even for this function.

If this were the whole of the job, it still would not be easy to accomplish in most jurisdictions. But in fact probation and parole supervision aims at much more. An officer is expected to offer counseling and guidance and to help in getting a job or in straightening out family difficulties. In practice he is almost always too pressed to do this well. Probation and parole supervision typically consists of a 10- or 15-minute interview once or twice a month, during which the officer questions and admonishes his charge, refers him to an employment agency or a public health clinic, and makes notations for the report he must file. The great pressures on these officers make it difficult for them to exercise evenly and knowledgeably the tremendous discretion they have in recommending the revocation or continuation of community treatment when offenders under their supervision get into trouble.

PRESIDENT'S COMM'N ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE, CHALLENGE OF CRIME IN A FREE SOCIETY 165 (1967).

3. The aim and spirit of the project was expressed in the following terms by Lawrence M. Hyde, Jr., Dean of the National College of State Trial Judges:

[It] recognizes the obligation of the fortunate to serve the unfortunate. It creates a group of active people and opinion-makers who can no longer think of criminal offenders as stereotypes, because these offenders have become real people.

AMERICAN BAR ASSOCIATION, VOLUNTEER PAROLE AID: QUESTIONS . . . AND ANSWERS 18 (undated) [hereinafter cited as ABA, VPA].

4. See generally Geis, *International Education Re-examined*, 71 EDUCATION 634 (1951).

more they may dislike each other. At worst, each may extend his antipathy in stereotypic fashion to include all individuals in the social group which the other is believed to represent.⁵ Nonetheless, a project desideratum was that knowledge in this instance would lead to understanding and to positive feelings between the attorneys and the Youth Authority wards.

In large part, the involvement of attorneys was a consequence of the American Bar Association's (ABA) desire to undertake work in the area of criminal corrections. The choice of attorneys as volunteers was not dictated by any belief that they would make especially skillful and successful intervenors. As an ABA brochure forthrightly put it, "[S]omebody must become the first volunteers, and lawyers are setting the example."⁶ The pamphlet suggested that "once lawyers prove that volunteers can be both responsible and useful, state parole volunteer projects can [be] and have [been] expanded to include non-lawyers."⁷

Nonetheless, project planners felt that certain job-related factors made attorneys particularly appropriate volunteers. Ninety percent of the country's lawyers, the ABA noted, are not involved in criminal law work and frequently are unfamiliar with the corrections field and its problems. The ABA project, therefore, could initiate an "important dialogue" between correctional workers and attorneys that otherwise would not occur. Lawyers also were seen as community weather vanes, pointing to problems that required attention. The attorneys' contacts could be beneficial to parolees, whose greatest need might be "a good word" or "a proper introduction." In addition, there was a presumption that many of the problems of the parolees would be of a "quasi-legal nature," which "lawyers can most accurately and easily respond to."⁸

5. See M. SHERIF & C. SHERIF, *AN OUTLINE OF SOCIAL PSYCHOLOGY* 280-332 (rev. ed. 1956).

6. ABA, VPA, *supra* note 3, at 1 (emphasis added). The comment, however, is either disingenuous or badly informed, for the history of corrections in Anglo-Saxon countries is suffused with reports of significant work by volunteers. Probation, the practice of releasing an offender to the community under supervision rather than incarcerating him, was a consequence of the volunteer work of John Augustus, a Boston cobbler. Between 1841 and 1858, Augustus helped more than five thousand persons "who being neglected by the world, had no sympathy or protection but what he volunteered to furnish." NATIONAL PROBATION & PAROLE ASS'N, JOHN AUGUSTUS, *FIRST PROBATION OFFICER* vi (1939). Note also:

[The] practice of visiting prisoners by outsiders who have interest in their plight goes back to antiquity, as witness the Biblical verse 'I was in prison and ye came unto me' [Matt. 11:2]. Certainly there is nothing new in lay visiting, since it has been carried on in British jails and prisons for 200 years.

H. BARNES & N. TEETERS, *NEW HORIZONS IN CRIMINOLOGY* 512 (3d ed. 1959).

7. ABA, VPA, *supra* note 3, at 1.

8. *Id.*

Project planners were not notably sanguine that the Volunteers in Parole program would reduce the recidivism rates of the participating Youth Authority wards, but they hoped that it might do so. Virtually all studies of projects based on the assumption that benign concern by well-intentioned middle-class persons will reduce criminal activity have reported disappointing results.⁹ Therefore, the idea that some brief hours of association between an attorney and a parolee might reverse lifelong attitudes and conditioning seemed questionable. Indeed, since no one anticipated that attorneys in the program might take on the lifestyles and behaviors of the wards, it appeared presumptuous to assume that the wards would readily abandon their patterns of life and adopt those of the attorneys. On the other hand, it is not unreasonable to hypothesize that a major factor which disposes disadvantaged persons to criminal activity is their distress and sense of hopelessness in the face of a governing social system whose operation they do not adequately comprehend and whose benefits, therefore, they are not able to enjoy. Project planners hoped that the program attorneys could provide insights and information which would allow the wards easier access to the system, and consequently, to those benefits related to law-abiding behavior.¹⁰ It is a truism, after all, that persons who own cars seldom steal them.

9. The classic effort in this genre is the Cambridge-Somerville study. It matched an experimental group of 325 boys (those receiving help) with an equal number of control subjects (those not getting additional assistance). During the study, paid counselors used whatever means they considered beneficial to assist the boys toward "adjusted" behavior. The study lasted from 1938 to 1946. Research showed that the behavior of the boys in the treatment group did not differ significantly from those in the control group. The boys in the treatment group had a slightly higher rate of delinquency, though their offenses were somewhat less serious than those of control group members. E. POWERS & H. WITMER, *AN EXPERIMENT IN THE PREVENTION OF DELINQUENCY* (1951). There was some hope that the treatment would provide internal resources for the boys so that they would cease criminal behavior at an earlier age than members of the control and would eventually show a lower incidence of crime and delinquency. A followup study proved this idea incorrect. W. McCORD, J. McCORD & I. ZOLA, *ORIGINS OF CRIME 19-41* (1959). A recent comprehensive review of 231 programs aimed at rehabilitation of correctional clients and analyzed by rigorous methods indicates that "[w]ith few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism." Martinson, *What Works?—Questions and Answers about Prison Reform*, 35 *PUB. INTEREST* 22, 25 (1974). See also D. LIPTON, R. MARTINSON, & J. WILKS, *THE EFFECTIVENESS OF CORRECTIONAL TREATMENT: A SURVEY OF TREATMENT EVALUATION STUDIES* (1975).

10. Middle class persons often fail to appreciate how much trouble persons outside the system have merely because they are not able to cope effectively with bureaucratic structures. For instance, parolees may feel intimidated by the procedures necessary to obtain a driver's license. Later, when stopped for a minor violation and found to be without a license, they may flee the parole jurisdiction. Thus, because of vague fears and misunderstandings about their positions vis-à-

The public relations possibilities of the program were also part of the design. Lawyers traditionally have been the object of considerable scorn¹¹—an attitude perhaps born partly out of envy, but one which can have serious consequences for its target. Today, in the wake of the deep involvement of lawyers in the Watergate crimes, the standing of the legal profession (or at least that sector not engaged in *pro bono* work) may well be at its lowest ebb in several decades. The cynicism of the lower-class person, particularly the criminal offender, about white-collar crimes by professionals has gotten enough mass-media fuel to keep it well-stoked.¹² In contrast, the Volunteers in Parole

vis the bureaucracy, they cause much more serious problems for themselves. Occasionally some attorneys in the Volunteers in Parole Program would help the wards with whom they were matched understand driving rules and pass the motor-vehicle operator's examination. In one of the VIP cases, a female parolee with several outstanding traffic warrants had decided to leave San Jose for Los Angeles to avoid apprehension, a move which would have put her in violation of her conditions of parole. "I talked to probably fifty people about it, but I still had it in my mind to go to L.A. before I talked to [the volunteer attorney]," the woman said. The attorney convinced the parolee to turn herself in to the authorities, and, after she spent 48 hours in jail, the warrants were dropped.

Similarly, another VIP lawyer stated:

One time, I went down to Juvenile Court with him and got all the tickets he had there cleared up. All he had to do was pay a fine of about \$35. We cleared up about five or six tickets. He was working at the time, but he'd never paid them off. Now, he's got more. These are adult tickets, and they're going to warrant and I've been working recently trying to figure out where those are. I checked one with the Sheriff's office and with the police and they didn't have any warrants out, and a couple of days later he got a letter saying they had a warrant out, a traffic thing which must of come through, and I tried to find out where the rest of them were. They are all catalogued by date of the ticket, and he doesn't have any of the paper work or can't find the tickets, so it's a real frustration as to where they are. They're in the system like time bombs, sooner or later they're going to turn into warrants. He'll get a letter and have to put bail up to avoid it. That concerns his parole officer too. He's threatened to put him in jail to work them off.

As a condition of the interviews, we agreed to keep the names of the lawyers, parolees and parole agents confidential.

11. Numerous illustrations of this point appear in *WORLD OF LAW* (E. London ed. 1960), which includes, among other exchanges, excerpts from the famous fictional trial of *Bardell v. Pickwick*, as penned by Charles Dickens. *Id.* at 16.

Criticism may also arise from within the profession. Thus, Thomas Jefferson abandoned law early in his life, calling it "a talkative and dubious trade." A. COOKE, *ALISTAIR COOKE'S AMERICA* 106 (1973). A typical observation on what is seen as the cold-blooded, self-serving nature of the trial lawyer is made by F. WELLMAN, *GENTLEMEN OF THE JURY* 95 (1943):

[A] lawyer always strives to win his cases. He in that way obtains his professional advancement and reputation. His one wish is to smash the other fellow, and he often does not care what means he uses, provided he can smash him effectively.

Note also the "practical" thrust in law work which tends to look scornfully at social work enterprises. Justice Holmes, for example, once described some of his reform-minded friends as "dear little proper geese that follow their propaganda." M. HOWE, *1 JUSTICE OLIVER WENDELL HOLMES* 25 (1957).

12. Of interest is the following report by Robert Maynard, a newspaperman

program offered the Youth Authority wards and the public a different image of attorneys. The coordinator of the Santa Clara program made note of this in an interview:

The parolees are seeing an individual from the Establishment who has "made it," and hopefully this changes their attitudes about attorneys; that these aren't such bad guys, guys who are out to make a buck. Their initial feeling in questions to me has been: "How much are they making by being a volunteer in this program?", and they're absolutely flabbergasted to find out they're not making money, and they're doing it out of the goodness of their heart. That's one thing that I think has happened; that they have more humanistic views of attorneys, that attorneys are people who are not always out to make a fast buck.¹³

I. LAWYERS HELPING PAROLEES: THE ABA'S NATIONAL PROGRAM

The Santa Clara VIP program began as part of a national lawyer volunteer program sponsored by the American Bar Association.¹⁴ The ABA's movement into correctional affairs was in large measure a response to a call by Chief Justice Warren Burger, who had suggested that the public was neglectful of this most important area.¹⁵ The ABA's answer to the Chief Justice's challenge was to establish a Commission on Correctional Facilities and Services. Taking guidance from a recommendation of

with the Washington Post, on his interview with a member of the Blackstone Rangers, a Chicago street gang:

"All of the good shit," he told me, "is either staked out or played out." To him, the law was an instrument of the rich to protect what they had for their own against the incursions of the likes of him. "They don't pay no attention to no goddamn law unless they want to . . ."

"The law," the Ranger sneered. "When last you hear of a millionaire going to the electric chair? When last you hear of the president of one of those big old corporations"—he sneered again at the sound of that word—"going to jail for fixing prices or selling people rotten meat that could kill them or even for income-tax evasion? When you hear anything like that?"

M. MINTZ & J. COHEN, *AMERICA, INC.* 265-66 (1971).

For similar rationalizations of criminal behavior, see D. GIBBONS, *CHANGING THE LAW BREAKER* 271 (1965); S. GLUECK & E. GLUECK, *VENTURES IN CRIMINOLOGY* 20 (1965); K. HANSON, *REBEL IN THE STREET* 132 (1964); and Sykes & Matza, *Techniques of Neutralization*, 22 *AM. SOC. REV.* 664 (1957).

13. Interview with Sue Sullivan, Coordinator, Volunteers in Parole program, in San Jose, California, Sept. 13, 1974.

14. The ABA's national program received funding from the federal Law Enforcement Assistance Administration.

15. Perlmutter, *Chief Justice Burger Scores Panel System for Rating Punishment Over Rehabilitation*, N.Y. Times, Feb. 18, 1970, at 16, col. 1. The Chief Justice, the *Times* reported, "called for volunteer efforts by the public to help in rehabilitation." For another report of the same speech, see *Rehabilitation v. Revenge*, TIME, Mar. 2, 1970, at 66.

the Corrections Task Force of the President's Commission on Law Enforcement and Administration of Justice,¹⁶ and collaborating with the Federal Bar Association and the ABA Young Lawyer's Association, the ABA commission inaugurated the Volunteer Parole Aide program in 1971.

The project was predicated on the belief that the period following release from imprisonment is particularly significant for an offender. Since 95 percent of all persons sent to prison ultimately are released into the community, and some 60 percent of these are released under supervision,¹⁷ it was deemed critical that the former offender should be encouraged to remain law-abiding during the period of parole. Finally, employment difficulties of ex-offenders,¹⁸ problems involved in re-establishing friendship and family ties, and similar kinds of adjustment issues clearly required personnel resources beyond those provided by parole officers, who generally carry very heavy caseloads: 50 persons per officer in Santa Clara County, for example.¹⁹

The work of the ABA Parole Aide project staff was essentially advisory. Staff members prodded state and county bar associations to establish their own parole aide programs, and offered a small amount²⁰ of funding to support such endeavors. A

16. The Commission report stated that

intimate personal experience with the offender has the capacity to make the volunteer an important participant in correctional work and a supporter of correctional effort. . . . Volunteers can be particularly effective in dealing with certain kinds of offenders. Youthful delinquents respond well to interest and help offered by volunteers, particularly those who are young enough to fill the role of model which is so often lacking in the lives of young offenders.

PRESIDENT'S COMM'N ON LAW ENFORCEMENT & ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: CORRECTIONS 104 (1967).

17. *Id.* at 60.

18. For studies of the difficulties faced by exconvicts seeking employment, see G. POWNALL, *EMPLOYMENT PROBLEMS OF RELEASED PRISONERS* (1967); McSally, *Finding Jobs for Released Offenders*, 24 *FED. PROBATION* 12 (1960); Schwartz & Skolnick, *Two Studies of Legal Stigma*, 10 *SOCIAL PROBLEMS* 133 (1962); and Stanton, *Is it Safe to Parole Inmates Without Jobs?*, 12 *CRIME & DELINQUENCY* 147 (1966).

19. Large caseloads do something else to the professional worker. Working daily with failures, poorly motivated and alienated people who do not consider correctional services helpful creates an atmosphere of defeat which sometimes leads to indifference. The volunteer who spends the greater share of his time in successful experiences is less conditioned to failure—and enters the relationship in a more positive frame of mind.

Jorgensen, *Guides for Volunteers in Correctional Settings*, in *VOLUNTEER TRAINING FOR COURTS AND CORRECTIONS* 95 (J. Jorgensen and I. Scheier eds. 1973).

20. The initial grant to the ABA (administered through a sponsoring agency, the Colorado Division of Criminal Justice) was \$210,995 for a 14-month period. The money was awarded under the provisions of section 306 of the Omnibus Crime Control and Safe Street Act of 1968, 42 U.S.C. § 3736 (1970). California's three programs received a total sub-grant of \$12,000 from the LEAA funds.

national newsletter was circulated, and interim bulletins were issued which provided information about matters such as the legal status of volunteers.²¹ In addition, project directors at a dozen sites were brought to Washington for three days in 1974 to see training films, review project materials, and share their experiences.²²

During the first two years of the ABA's work, the Parole Aide program became established in twenty different states²³ and enlisted about 2,000 attorneys as volunteers. The programs throughout the country differed considerably as to administrative arrangements, program rules, and the kinds of offenders involved in the programs. California, for instance, was the only state in which the programs were geared to youthful offenders; in other jurisdictions, the attorney volunteer projects served adult parolees.

In California, the program was administered on a county-wide system, rather than the statewide basis used in other jurisdictions. A major program stipulation written into the LEAA funding guidelines was that the lawyer volunteers would not be allowed to represent the parolees in attorney-client relationships,²⁴ though they might assist them in dealing with the legal system in general. Except for these restrictions, the character of the attorney-parolee relationship would be allowed to develop as best it could.²⁵

Attempts at evaluating the consequences of these different programs were eclectic; some of the conclusions, however, are of interest, including the following observations:

21. It was noted, for instance, that California has no specific statute specifying the status of volunteers. AMERICAN BAR ASSOCIATION, VOLUNTEERS IN THE CRIMINAL JUSTICE SYSTEM: RIGHTS AND LEGAL LIABILITY 17 (undated). The California Youth Authority Manual (YAM), however, sets forth rules in regulation number 0120 for reimbursing volunteers and for having them covered by workman's compensation. In addition, county departments are authorized to operate volunteer programs to help their employees deliver social services such as visiting the indigent aged, and escorting social service recipients to clinics. CALIF. WELF. & INST'NS CODE § 10810 (West 1975).

22. Volunteers in Parole 1 (April, 1974).

23. Alabama, California, Connecticut, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New Mexico, North Carolina, Pennsylvania, Tennessee, Texas, Vermont, Virginia, and Washington.

24. Program planners viewed this restriction as necessary in order to secure funding for the national program. The restriction lessened the fears of correctional officials that the program would become a vehicle for further legal attack on the correctional system.

25. The matter is nicely expressed in a national publication of the ABA: "The precise nature of the relationship between the volunteer and the parolee has basically remained free form and evolutionary, depending primarily on the need of the [latter] and the capacity of the [former]." American Bar Association, *Volunteer Parole Aide: A General Evaluation*, PAROLE RELEASE 2 (Aug., 1973) [hereinafter cited as *Volunteer Parole Aide*].

(1) Parolees' attitudes about their volunteer attorneys were not significantly related to the parolees' age, race, level of education, or whether their offense involved violence.

(2) Parolees who met with volunteers in one or the other's home reported a significantly greater feeling of "closeness" with their attorneys than those parolees who met in other places.

(3) The longer the attorney volunteer knew a parolee, the stronger was his impression that the parolee would confide in him and that the parolee was trying to improve. However, prolonged contact also tended to convince the attorney that the parolee might commit another crime.

(4) Older parole officers were more favorably disposed toward the attorneys than younger officers, "contrary to what might be expected."²⁶

On a nationwide basis during the first year of the program, approximately 5.5 percent of the parolees assisted by volunteer parole aides were returned to prison for a new offense or parole violation.²⁷ This figure generally would be considered a low recidivism rate, but comparative recidivism rates are extremely misleading, and they are far from the only criteria of achievement.²⁸

In the second year, as required by the LEAA, the ABA inaugurated new Parole Aide programs, leaving the established ones to secure financial support for themselves. Some programs ceased operating without federal monies; others were supported by the parole agencies or the bar associations. Of the three efforts that had been established in California, two—the Santa Clara and the Los Angeles projects²⁹—continued to function, largely with money secured by a grant from the California Council on Criminal Justice (CCCJ).³⁰ The third program, located in Sacramento, expired at the end of its initial year. The necessity of competing for scarce funds is alleged to have introduced disruptive conditions into the Santa Clara program. A project advisor graphically described the problem:

26. *Id.* at 3. See also Berman, *The Volunteer in Parole Program: An Evaluation*, 13 *CRIMINOLOGY* 111 (1975).

27. *Volunteer Parole Aide*, *supra* note 25, at 3.

28. *Id.* The best summary and discussion of recidivism statistics is D. GLASER, *THE EFFECTIVENESS OF A PRISON PAROLE SYSTEM* 3-17 (1964). A major difficulty in measuring recidivism is that revocations (and prosecutions) will not take place when the authorities learn that there are additional resources, such as volunteer attorneys, which "justify" taking another chance on the offender.

29. For information on this program, see Simmons, *Lawyers as Volunteers—the Los Angeles Experience*, 26 *YOUTH AUTHORITY Q.* 3 (1973); *Los Angeles Times*, Dec. 10, 1974, § IV, at 1, col. 2.

30. Now the Office of Criminal Justice Planning (OCJP).

Our biggest problem is funding, because we've had to fight constantly to stay afloat. . . . By the time we get to the surface, a wave comes along and we go under again. They [CCCJ] don't have a long enough string Whenever you let your crop dry out, you get stunted crops. . . . They've got wounds in them. I think our program has some of those bad cells in it because it has withered away on the vine a couple of times when it was in its infancy because of a lack of permanent funding.³¹

Nonetheless, the Santa Clara program is perhaps the most vigorous offspring of the original ABA Parole Aide Volunteer programs.³² Its strength seems to lie in the intense dedication and commitment of the coordinator, the relatively small size of the project work area, and the generally cooperative spirit of a number of CYA parole officers. These factors have made our descriptive and evaluative effort more manageable than it would have been in most other jurisdictions, where the programs were considerably larger and more spread out. Below, we will detail what we have learned about this particular effort of young Santa Clara County attorneys to engage in what reasonably can be regarded as a selfless and altruistic contribution to the public welfare.

II. THE SANTA CLARA VIP PROGRAM

Santa Clara County became the site of the Volunteers in Parole program as the result of a series of fortuitous circumstances. In the fall of 1971, members of the Santa Clara Barristers' Club decided to proceed with a project that would allow young lawyers to volunteer assistance to adult probationers in the county. The club enrolls about 600 of the county's 1,400 attorneys³³ and represents a segment of the Bar that sees itself as more likely to be idealistic and service-oriented than their older and generally better-established colleagues. In addition, the Barristers felt their relative youth would prove an asset in establishing rapport with the young correctional clients.

The Barristers' original plan floundered after it encountered resistance in the county's adult probation system, where the idea

31. Interview with Reed Ambler, first chairman of the program Advisory Committee, in Los Altos, California, Sept. 13, 1974.

32. The project received a first-place Award of Achievement from the California Conference of Barristers in 1974, the initial year such awards were made. In October, 1974, the program was awarded second place in the ABA's Merit of Award Competition.

33. Membership in the Barristers' Club is limited to lawyers who are 36 years old or younger, or who have been in practice 5 years or less.

was seen as intrusive and disruptive.³⁴ Early in 1972, however, the Barristers learned of the ABA's national program and negotiated their participation in that effort.

Initially, there was considerable resistance to and resentment of the project on the part of the 10 CYA parole agents in the county, who "felt that the top administrators were putting too large a burden on them by insisting that they work with volunteers."³⁵ In the first fourteen months of its operation, the project enrolled 48 attorneys and four law students as a result of a recruiting campaign that included media publicity and personal appearances by the coordinator at various county bar association gatherings. The project was housed rent-free in offices of the California Youth Authority, an economical ecology that was to prove of considerable value, for it allowed the coordinator to approach personally agents and parolees at strategic moments and to attempt to elicit their participation in the project.³⁶ The current project coordinator describes in some detail how this critical aspect of the project functions:

"Coordinating" is getting the volunteer attorney together with a parolee in an assignment, and this takes quite a bit of time. I'll talk with a parolee that I sort of nabbed in the office. He's never seen me before. Then, I'll come back to my office, go through my list of available volunteers, and if I have one for this particular boy, I'll make a phone call to that volunteer right away, describing the parolee to him, and finding out if he's interested in getting assigned. If the answer is "yes," I ask if he'd like to get together with the parole agent and read the boy's file.³⁷ If the answer is "yes," I try to

34. Interview with Reed Ambler, first chairman of the program Advisory Committee, in Los Altos, California, Sept. 13, 1974.

35. Goodman, Santa Clara County Barristers' Volunteers in Parole Report 2 (May 7, 1973) [hereinafter cited as Goodman]. Marion Goodman was coordinator of the program from its inception until October, 1973, when she was succeeded by Sue Sullivan, who works on a part-time basis (24 hours per week). Ms. Sullivan's husband is an attorney in the county, which is believed to have helped establish her credibility with lawyers recruited for the project. She had worked for six years as a juvenile probation officer; interestingly, she reports greater satisfaction from her former job than from the present one:

The other job was more fulfilling. I actually had something to offer them, whereas I step out of it as soon as I make a match between a parolee and an attorney. I don't effect any change in the individual.

Interview with Sue Sullivan, Coordinator, Volunteers in Parole program, in San Jose, California, Sept. 13, 1974.

36. The arrangement also allowed the coordinator "to move freely without any threat to all levels of the CYA staff—from line staff to middle and top management." Goodman, *supra* note 35, at 1. However, it is questionable whether the accessibility offered by exemption from bureaucratic protocol is as much an asset as the report suggests, since lower-echelon personnel might well feel threatened by a person who has the ear of their superior.

37. This procedure may be in violation of the directive of the Youth Author-

get in contact with the parole agent right then. But it usually takes a good week to get the assignment together, and more than likely it'll go on for two weeks. It's my job to follow through, check with the attorneys or with the parolees, has there been any contact? And trying to reach either one of these could take another week. My other duties include reminding the parole agents of my existence, sitting down with them in their offices, which more or less forces them to go through their case book to see if there is some parolee they may have overlooked who might be interested in the program. Then I have to follow that up each day that I'm here and say, "Have you seen Johnny Joe?" "Oh, yes, I just saw him yesterday and I forgot." So that takes two weeks to get the parole agent to initiate describing the program to the parolee, unless by chance I run into the parolee here in the office, which doesn't happen very often, because not many come in here very often. So I'll attend the drug sessions here on Wednesday night.³⁸

From the viewpoint of the parole agents, their cooperation in referring clients who might benefit from the VIP program was based upon their assessment of the parolee's needs. The agents reported to us that a parolee was usually referred to the program because the agent decided that the parolee required a "role model."³⁹ Somewhat less frequently, though often, the referral was prompted by an agent's belief that a particular parolee needed either "a friend" or practical advice and assistance. The criminal history of the parolee usually was regarded as much less important in determining whether or not he ought to be placed in the VIP program.

In this regard, it is difficult to ascertain whether it was the considered judgment of the parole agent, the agent's lethargy, indifference, or antagonism to the program, or the refusal of the parolee to participate which kept the roster of participants to about 10 percent of the caseload of the parole office. For many

ity that, in regard to volunteers, "case files are confidential." CALIFORNIA YOUTH AUTHORITY, LAWYER VOLUNTEER PAROLE AIDE PROGRAM 14 (April, 1972). It may be that the CYA warning is meant to refer only to the broadcasting of information made available to cooperating persons, such as the VIP attorneys. Many lawyers, however, did not read the parolee file materials, because they did not want to begin the relationship with preconceptions. As one attorney noted:

I was offered a chance to read all about the kid's background and his shrink's reports and all that, but I said I didn't want to do this. I went into it on the basis that I wanted to be his friend, and I didn't want any preconceived ideas.

38. Interview with Sue Sullivan, Coordinator, Volunteers in Parole program, Sept. 13, 1974.

39. Similarly, one of the attorney volunteers described the best part of the program as the fact that "I can talk to somebody and listen to someone who in a lot of ways was like me when I was a kid. It gives me an opportunity to say, 'Hey, kid, it's OK. You can make it if you try.'"

of the parolees, particularly those bent on resuming a crime career, another watchdog was the last thing they desired; for others, shyness, self-sufficiency, uncertainty about the program, and similar factors undoubtedly caused them to decide against participating. But whatever its cause, the relative lack of parolee interest is noteworthy. As one agent said, "I try almost every kid, but most of them say they don't want any part of it."⁴⁰ Another agent summarized the matter in the following way: "Many of the guys aren't too receptive; they're married or have their own thing going."⁴¹

The purpose of our inquiry was to determine what happened once the initial matching of CYA wards with attorneys was accomplished and relationships had been established. Like marriage, the consequences of the VIP pairings were extraordinarily diverse; and, as in marriage, the precise ingredients which made for a positive outcome as contrasted with a less than satisfactory one were not always readily discernible. Between January and December, 1974, we interviewed the attorneys, the wards and the parole agents involved in the VIP program in our attempt to pinpoint significant aspects of its operation.⁴² We compared information about similar occurrences provided by members of each of the three groups in order to obtain cross-checks on the reliability of the reports and to gain insights into how persons in different positions perceive the same situation.

III. QUESTIONNAIRE RESPONSES

The following are matters which appeared significant to us about the VIP program in Santa Clara.

A. *Who Are the Participants?*

It is an axiom of volunteer work that the person providing

40. Interview with a parole agent, in San Jose, California, Nov. 20, 1974.

41. Interview with a parole agent, in San Jose, California, Nov. 20, 1974.

42. Our information comes from a number of different sources. We gathered some data through an initial questionnaire survey of 27 lawyers, 17 parolees, and nine parole agents, in the spring of 1974. In the fall, we interviewed all individuals then participating in the program; this included 24 lawyers, 18 parolees, and five parole agents. Most of our discussion is based upon the personal interviews, although on occasion we refer to persons who returned the written questionnaire but did not participate in the personal interviews. This is because we gathered more extensive demographic information in the written inquiry, and because we believed that the later participants did not differ significantly from their predecessors in these respects; indeed, most persons were in both groups. The description of parolees includes all parolees who were involved in the program at any time.

It should be noted that the percentage and numbers used in the article will vary because, in discussing responses to a particular question, we simply excluded participants who did not answer that question.

the service rarely does so for totally altruistic reasons.⁴³ The fact that 10 of the 27 attorneys involved—almost 40 percent—were unmarried might suggest that a substantial number felt a need to expand their social relationships. It is equally true, of course, that single persons are apt to have more time available, and that marriage imposes family obligations on many attorneys.

Most of the attorneys were members of private law firms (10 of the 27), though eight worked for public agencies and six were in business for themselves. Ten were primarily involved in criminal law work, while five indicated that family law constituted the major focus of their practice. The high percentage of criminal lawyers in the pool undercuts one of the rationales for the program—to acquaint lawyers in other areas of the law with the criminal justice system.

Nevertheless, even for lawyers specializing in criminal law, the intimacy between the partners in the VIP program would be likely to promote a level of learning and experience not otherwise available to them. This knowledge might be even more valuable for criminal lawyers than for other attorneys. In our study, for instance, a public defender accustomed to interacting with a large number of real and alleged criminals noted that "dealing with [the parolee] on a personal basis was different than dealing with a client, different than I expected it to be." Among other things, this attorney decided later that he was "pretty self-centered about it, and thought that [the parolee] would be doing handsprings for joy that here I was, you know, going to lift him right up by the bootstraps all the way to the summit." In addition, the practicing criminal lawyer working in the VIP program might well develop more of a personal understanding of his other clients through close association with a person having a similar background. Finally, the program offered such attorneys an unusual opportunity to observe people similar to their clients *after* the system had worked on them.

43. There may, indeed, be no such thing as altruism, though debates on the issue appear to be largely matters of semantics. Justice Holmes observed that "nature makes self love an instrument of altruism and martyrdom, but the self lover is not required to know it, although [he is] more intelligent if [he] does." 2 M. HOWE, JUSTICE OLIVER WENDELL HOLMES 49 (1963). See generally ALTRUISM AND HELPING BEHAVIOR (J. McCauley & L. Berkowitz eds. 1970). It may be noted, in addition, that experimental research indicates that persons who volunteer, at least for medical experiments, tend "to show greater psychopathology" than non-volunteers. R. Rosenthal & R. Rosnow, *The Volunteer Subject*, in ARTIFACT IN BEHAVIORAL RESEARCH 59, 87 (Rosenthal & Rosnow eds. 1969). In survey-type research, volunteers are reported to be better adjusted than non-volunteers. It has also been discovered that for standard tasks, women tend to volunteer more than men, but for unusual tasks, their volunteer rates drop below that of men. *Id.* at 111.

The legal volunteers ranged from 24 (a law student) to 53 years of age, with the average age being 31. Most of the attorneys had graduated from law school in the early 1970's. We were surprised to learn that 10 of the 27 attorneys reported some prior experience with volunteer programs. All 10 indicated that the earlier experience had been of a positive nature.

While the attorneys were volunteers, the parolees were selected by their agents, who asked them to become involved. Nonetheless, the parolees in the project, in terms of their demographic identities (age, offense, time in CYA, and ethnic characteristics), turned out to be a heterogeneous group, and one that generally was representative of the CYA parole population in Santa Clara. Of the 33 parolees who were at any time involved in the VIP program, 29 were male. The largest number had first been admitted to CYA institutions at the age of 15, though three were under 12 at the time of their first admission, and five were 19. The group consisted of 19 (or 58 percent) whites, 13 (or 39 percent) Mexican-Americans, and only one (3 percent) black. Many parolees were high school graduates or near-graduates, 21 percent having completed 11th grade, and another 21 percent having finished 12th grade. Five parolees (or 15 percent of the group) had only an eighth grade education or less. Only one third came from an intact parental home; seven (21 percent) of the broken homes resulted from death, while 11 (33 percent) were caused by divorces or separations. Forty-seven percent of the parolees were Catholic.

Commitment offenses included crimes of violence (15 percent), property offenses (33 percent), narcotics crimes (18 percent), and juvenile offenses (27 percent); the remaining six percent were spread among a variety of other crimes. One fourth of the parolees had contact with the juvenile courts prior to their CYA commitment, and 64 percent had one or more prior commitments to a county facility. The current ages of the parolees ran from 16 through 22, with most (60 percent) between 19 and 21.⁴⁴

B. *The Nature of the Relationships*

A major objective of the VIP program was to bring about a one-to-one "big brother" type of relationship. The lawyer would represent a "role model," a visible and available exemplar that persons who "succeed" in American society are reasonable human beings and are willing to offer help based upon their

44. The average age of the parolees was 19 years.

experiences. For this to happen, there must be some quantitative and qualitative interaction between the parties. The effect of such interaction on the behavior of a ward is open to question, however. Too strong a "model" might prove overpowering and discouraging. Too weak a "model" might well be useless.⁴⁵

The quantitative dimensions of the pairings obviously were the easier aspect to document. The lawyers met with the parolees an average of four times a month, with a range from one to nine meetings each month. They spent an average of nine hours every month with the parolee. This figure was raised considerably by one of the attorneys who reported devoting 40 hours a month to his parolee (the median was six hours a month). Telephone calls between lawyers and parolees (other than to set up appointments) came to about two a month; one attorney went far beyond the average, making eight calls per month. These figures, incidentally, were similar in both the parolees' and attorneys' reports to us.

Fifteen of the attorneys had visited the parolee's home, while only eight of the parolees had been at the lawyer's house. Eleven pairs had met at one time or another at the attorney's office. Other meeting places included restaurants (12 pairs); entertainment sites (8); sporting events (6); and the parole office (3).

Evaluation of the qualitative aspects of the relationships was based on personal reports. These reports must always be interpreted with some caution, since persons are apt to tell an interviewer what they believe the interviewer would like to hear. In this particular instance, parolees are naturally cautious about being overly critical (particularly to strangers), because they are at risk: as parolees, they know that they are not totally free to do and say exactly what they want. Also, the attorneys may be presumed to have something of an interest in portraying themselves as having performed satisfactorily. On the other hand, these cautions should not be overemphasized; a comparison of the responses provided by each of the three parties to the rela-

45. Paradoxically, a weak role model sometimes proves beneficial. In one experiment, for instance, it was found that former narcotic addicts who were employed as lecturers in a junior high school seemed to gain self-assurance when they concluded that the teachers were hopelessly inept:

One thing that did amaze me about this project is how ignorant teachers are. You know, I had always held them up there some place and thought they were really something. But they are incredibly stupid. And I now see how naive that idea was. I feel pretty good about it now. I feel, you know, if they can make the kind of money they are making—for Chrissake, I sure can go out and make some money.
Bullington, Munns & Geis, *Purchase of Conformity: Ex-Narcotic Addicts among the Bourgeoisie*, 16 *SOCIAL PROBLEMS* 456, 461 (1969).

tionships (attorney, parole agent, parolee) indicated that the replies were generally reliable.

Perhaps for the reasons noted, though more likely as a matter of truth, the parolees consistently reported more pleasure, rewards, and commitment to the program than the attorneys believed the parolees felt, and more than the attorneys reported for themselves. Two thirds of the parolees said that they always enjoyed meeting with the attorneys, and the remaining one third maintained that they nearly always did. Among the attorneys, however, only five (23 percent) said that they always enjoyed the sessions, while ten (45 percent) said they nearly always did so, and seven (32 percent) were neutral about the matter. The differences are quite striking, and they are sharpened by the fact that the parolees were relatively accurate in estimating the attorneys' enjoyment of the meetings, while the attorneys significantly underestimated the parolees' degree of satisfaction.

Similarly, 14 of the parolees (82 percent) said that they would have liked to spend more time with the lawyers, but only nine of the attorneys (60 percent) thought that the parolees felt this way. The parolees again were somewhat more accurate in estimating how the attorneys would respond: 15 (88 percent) believed that the attorneys would have liked to spend more time with them. In fact, 14 attorneys (70 percent) reported such feelings. In short, the parolees expressed a belief that the attorneys were more enthusiastic about the program than the attorneys actually were, while the attorneys believed that the parolees were less enthusiastic about the program than they actually were.

In part, these differing perceptions may be a function of status variations. The attorneys, busy with their jobs, may subtly or less-than-subtly have conveyed impatience, perhaps on occasion abruptness, which apparently served to make some parolees more appreciative of the time actually spent with them. Lawyers had less to gain in traditional terms than the parolees from the relationships, and less reason to derive rewards (other than self-satisfaction) from the encounters. In addition, it is quite likely that the parolees did not offer the traditional kinds of appreciative "cues" that attorneys are accustomed to receiving on social occasions, especially when they have been hosts or have expended some effort. Clearly, the attorneys did not sense the same kind of enthusiasm for their company and efforts that the parolees' verbal comments to us indicate they felt.⁴⁶

46. It was amusing in the interviews to hear the attorneys plaintively, and sometimes with irritation, detail missed appointments by the parolees. "We had

There was less of a disparity with regard to the success of the match in providing motivation for the parolees, though the parolees again reported a greater effect than the attorneys perceived. Two thirds of the attorneys believed they had helped motivate the parolee, while 72 percent of the parolees felt so motivated. The response to the motivation inquiry provided an accurate index of the parolees' overall evaluation of the VIP program. Eight parolees (44 percent) indicated that the program had been "very helpful" to them, six (33 percent) thought it had been helpful," while four (22 percent) gave neutral responses on the issue. None of the parolees, it should be stressed, thought that the VIP program had been of no help to them. Interestingly, four lawyers reported that their parolees did not want any help from them, but only one parolee indicated such a disinterest in assistance. The nature of the help provided by the attorneys is set out in Table 1.

TABLE 1
Parolees' Reports of the Nature of Help Given Them
by VIP Attorneys

Type of Help	Number Reporting ^a N = 24
Gave advice on educational plans	16
Simply was a friend	16
Helped motivate	16
Gave advice and help during a personal problem	15
*Gave advice on a legal problem	15
Talked to him when he needed someone	14
*Gave advice on dealings with police	9
Gave advice on financial problems	9
Made sure he stayed out of trouble	7
Helped adjust to community life	6
Got a job	5
*Gave advice on parole regulations	5
Introduced to new activities, hobbies, recreation	3
Helped find a place to live	1

^a Respondents could provide more than one answer to the question.

* These are categories of assistance where legal training might be particularly valuable.

A number of items in Table 1 require additional emphasis. Perhaps the most interesting is an analysis which divided the

three appointments to play tennis," one attorney noted. "He either canceled out or never showed up." The parolees never complained specifically about the failure of the attorneys to keep appointments, even though this happened frequently. The parolees would always state the matter much more generally, such as "We're having some problems getting together."

tasks the attorneys might accomplish specifically because of their legal training (marked with an asterisk in the table) from those which might be achieved by any sensible volunteer. The roster clearly indicates that the legal background of the VIP volunteers adds an element to the relationship that would not otherwise be present. There were nine instances in which the attorney provided advice on dealing with the police, five instances of advice on parole regulations, and 15 references to advice on a legal problem.

In addition, the significant number of jobs secured for the parolees by the attorneys (a total of five) indicates another strength in the program and suggests the influence attorneys have in the community. Satisfactory work is often the most pressing need of the parolees, and it is believed that a good job is a major factor in preventing recidivism. As Taft and England have noted:

The parolee needs help. To secure, to hold, and to get to like the types of jobs most frequently available to parolees is not easy. . . . His supervising officer must help get him a satisfying job and must make a prospective employer somehow feel that it is good business to employ a man with a prison record.⁴⁷

Finally, a considerable number of lawyers offered advice about educational plans, advice frequently directed at persons who had left school early and with considerable distaste for what it had to give them. The attorneys' concentration on this avenue of mobility may be regarded, we think, as an interesting reflection on their own use of educational channels to achieve respectability and pleasure; apparently, they tend to recommend the same approach for others, whether it is appropriate or not.⁴⁸

47. D. TAFT & R. ENGLAND, JR., *CRIMINOLOGY* 497 (4th ed. 1964). See generally J. MARTIN, *OFFENDERS AS EMPLOYEES* (1958).

48. One attorney put the matter felicitously when describing the parolee with whom he was matched. "I like [the parolee]. He's a good kid. He just doesn't have any idea that life can be fine; *you can win at it.*" (Emphasis added.) There was a notable tendency by the volunteer attorneys to attempt to transmute the parolees into persons more like themselves, particularly in regard to having them acquire more schooling. Margaret Mead has noted this drive in successful people to form others in their own image, and the necessity to curb the impulse when it is inappropriate to the situation:

People would come to me with some vague stirring or ambition, some vague glimpse of a possible future, and unless I was careful, I would find myself imagining a whole future and the course of action necessary to grasp it. As students or friends talked about what they wanted to be or do, a panorama would unfold before my eyes in which I could see how some special combination of talent and experience might make possible a unique contribution to the world. It was better, I had learned, to listen and occasionally suggest some alternatives or some of the complications of the course chosen by the person.

M. MEAD, *BLACKBERRY WINTER* 274-75 (1975).

In light of the participants' answers to other questions, the pattern of responses to an inquiry about the probable efficacy of the VIP program in helping the parolees to remain out of jail was predictable. The lawyers, as expected, were rather less sanguine about this eventuality than the parolees. Only one of them (but six of the parolees) believed the program would be of great help, and the disparity remained constant among the less enthusiastic respondents: the parolees found more potential value in the program than the lawyers. The parole agents tended to be more like the parolees, seeing considerable value in the VIP program respecting its ability to prevent a return to prison.

A final aspect of the relationships between the parolees and the attorneys was explored by asking whether they were enthusiastic about continuing their relationships. The distinctions between the two groups, illustrated in Table II, are notable.

Table II
Parolee and Attorney Responses to Inquiry about Level of
Enthusiasm Regarding Continuing the Relationships

Response	Attorneys		Parolees	
	Number	Percent	Number	Percent
Very Enthusiastic	3	13	8	44
Enthusiastic	9	37	5	27
Neutral	8	33	2	11
Less than Enthusiastic	2	8	2	11
Not Enthusiastic	2	8	1	6
Totals	24	100	18	99

Almost half of the parolees, but only slightly more than 10 percent of the attorneys, were "very enthusiastic" about continuing their relationships. The general "enthusiasm category," computed by combining the responses for "very enthusiastic" and "enthusiastic," included 71 percent of the parolees and only 51 percent of the attorneys. The negative categories ("less than enthusiastic" and "not enthusiastic") show similar ratios for the two groups; the difference is accounted for by the comparatively large number of attorneys who were "neutral" about continuing their relationships. Disenchantment was clearly a one-sided business.

Given the character of these responses, the affirmative answers to the question whether the parolees and attorneys would repeat their enrollment in VIP if they could do it over again seem rather surprising. Only three of the 23 attorneys responding said that they would not volunteer again, and not one of the 18 parolees indicated that he or she would not participate

in the program again. This seems to be an impressive endorsement, if only of the cliché that hope springs eternal. Or somewhat more elegantly, it appears that the participants, however disillusioned they might be at any moment, were almost unanimous in their conviction that the VIP program contains elements of merit and promise that render the program attractive despite the day-to-day realities of its operation.

C. *Increased Knowledge and Understanding*

A major aim of the VIP project was to provide experiences for the attorneys which would lead to a greater understanding on their part of the criminal justice system. That system, under severe attack on a variety of fronts,⁴⁹ has been said to suffer from the impotence and isolation of the persons who pass through it. These persons are predominantly lower-class, inarticulate, powerless, and isolated from the mainstream of American life. Indeed, the prison inmate who is deprived of many of his civil rights and employed within the institution at pitiful wage rates has been regarded by some as the last of the country's slaves. The parolee frequently is denied access to the ballot box, a possible vehicle for improving his condition.⁵⁰

If crime is largely a function of social conditions rather than of personal pathology—a position widely accepted in the scholarly community⁵¹—then a more intimate acquaintance with criminal offenders and the processes affecting them might well bring the attorneys to experience a deeper sympathy for the plight of the parolees. Finally, attorneys constitute the occupational group that exercises the most political power in the United States, in terms of office holding.⁵² Therefore, the reasoning goes, acquainting attorneys with criminal justice inequities should contribute to the ultimate reform of those aspects of the system.

This was certainly a consideration that appealed to the parolees. At the outset of the project, only one of the 14 parolees responding (7 percent) believed that the lawyer could not learn from him. Eleven (79 percent) of the parolees thought that the attorneys could learn "a substantial amount," while the remaining three (21 percent) thought the learning would come to a

49. See, e.g., AMERICAN FRIENDS SERVICE COMM., STRUGGLE FOR JUSTICE (1971); G. JACKSON, SOLEDAD BROTHER (1970); R. QUINNEY, CRITIQUE OF LEGAL ORDER (1974).

50. See, e.g., Geis, *The Right to Vote*, 35 PRESIDIO 9 (1968); Note, 59 CORNELL L. REV. 1139 (1974).

51. See, e.g., E. SUTHERLAND & D. CRESSEY, CRIMINOLOGY (9th ed. 1974).

52. H. EULAU & J. SPRAGUE, LAWYERS IN POLITICS 11-13 (1964).

"moderate amount." These initial views tended to be slightly modified after some time in the program. When we did our interviewing, after the parolees had been in the program for an average of about eight months, they were evenly divided among those who thought the attorneys had learned "very much" (four), or "much" (five), and those who believed they learned a moderate amount (eight), or very little (one).

Whatever they may have learned about the participants, most attorneys did not believe that they had gained any knowledge of the criminal justice system. This may, of course, be explained by the fact that a considerable number of these attorneys were engaged in the practice of criminal law. Nine attorneys were "neutral" in regard to the amount of education they had received about the criminal justice system from their VIP experience; eight thought the program had been less than effective as an educational experience, while only six thought it was either effective or very effective. Similarly, slightly less than half of the attorneys described themselves as having gained more than a moderate knowledge of prisons after they had been involved in the program.

These judgments, incidentally, contrasted significantly with those of the parole agents, who overwhelmingly (four of five responses) considered the program to be either effective or very effective in providing attorneys with information about the criminal justice system.

Perhaps the most important change concerned the attorneys' attitudes about the correctional system. One attorney indicated "much change"; three, "some change"; ten, "little change"; and nine said that there had been "no change" in their thoughts about the correctional system. In this instance, of course, bare numbers only hint at the possible implications. For one thing, the change may be negative, in terms of desired outcome. For another, a change in the attitudes of one particular person (say, the future governor or attorney general of the state) may have incalculable long-range effects. Another reason many of the attorneys reported little change in their estimate of the correctional system is that, as a group, they already had a considerable amount of information. The response may also be partly attributable to the human tendency to resist admission of an alteration in viewpoint, since such an admission may suggest intellectual inconstancy and may also bring into question the accuracy of presently-held views.⁵³

53. See, e.g., Lund, *The Psychology of Belief*, 20 J. ABNORMAL & SOCIAL PSYCH. 174 (1925).

D. *The Parole Agents and the Program*

The parole agents, it will be remembered, were hesitant to see the VIP program inaugurated in Santa Clara. Several initially complained that the program meant only more work for them—more people to see and more papers to fill out. In addition, like most of us, the parole agents probably did not care to have their performance scrutinized by outsiders, particularly outsiders whose social status was higher than their own.⁵⁴ Parole work is as much an art as a technical enterprise, and its practitioners are understandably sensitive to criticism and caricature as they attempt, with limited resources and against considerable statistical odds, to alter the patterns of behavior that led their clients into trouble with the law.

The degree of cooperation between the parole agents and the VIP program varied considerably, apparently (though not necessarily only) as a function of the agents' willingness to accept proffered assistance, and of their belief in the possible efficacy of such aid.⁵⁵ Additional work for the parole agents was generated by the VIP program. In 24 of the 26 matches, for instance, the parole agent discussed the parolee with the lawyer volunteer. Based on our before and after interviews, the agents reported little change in their attitudes toward attorneys as a

54. On the other hand, many of the parole agents welcomed the opportunity to interact socially with the attorneys. The matter is nicely described in a report from the program coordinator regarding a luncheon she had scheduled to bring together the agents and the attorney volunteers:

When I came into the office I found the eight parole agents . . . all dressed up and the luncheon was the main topic of conversation that day. . . . I was generally pleased with the way the program proceeded during the lunch; however, all along I was very disappointed at the number of attorney volunteers present. At the same time, I was proud of the parole agents who made an effort to come to the lunch after only being notified on the previous Monday and certainly didn't have the extra \$4.00 to spend for a lunch as the attorneys do.

Letter from Sue Sullivan to Steve Simmons, Feb. 5, 1974, at 2.

55. In addition, resistance by the agents was the most significant factor in bringing about the abandonment of an attempt to establish an analytical method using a control group and sophisticated "before and after" measures. The agents, for reasons that seemed compelling to them, were, in the words of the coordinator, "passively resistant" to many requests that they designate two parolees for the program and allow an evaluative group to select the one who would be matched. The agents felt that such a process would be discriminatory. The pool from which they might select parolees was rather limited, and they did not want to use extraordinary persuasion upon reluctant persons. The inability to have the early questionnaires returned in any significant numbers was, we felt, largely a function of two things: (1) the general indifference of the agents to such research, which in their opinion had rarely been of any value to them in the past; and (2) the infrequency of their visits with the parolees, which made it difficult for them to remember and complete the questionnaires. We believe that the failure to implement this design was not particularly damaging given the small number of persons involved in the program and the short length of time covered by the evaluation.

consequence of the program, however. In each interview, one agent said he was "very positive" toward attorneys, two stated that they were "positive," one was "moderately positive," and one reported "negative" views about attorneys.

The contrast in the amount of time devoted to the parolees by the parole agents and by the attorneys is quite interesting. The agents averaged about one meeting with the parolees a month, compared to four by the attorneys; their meetings totaled about 1.6 hours during the month, about one fifth of the amount of time devoted to the parolees by the attorneys. As for the number of telephone calls, the averages were similarly skewed: less than one call per month for the agents, compared with about two per month for the attorneys.

Given this significantly disproportionate amount of attention, how did the parolees feel about the assistance they received from the attorneys, compared to that received from the parole agents? The results of an inquiry directed to this point are set forth in Table III.

Table III
Parolees' Responses Regarding the Helpfulness of the
Attorneys and the Parole Agents

Response	Number	Percent
Lawyer More Helpful	6	33
Lawyer Slightly More Helpful	1	6
Neutral: Both About the Same	7	39
Agent Slightly More Helpful	2	11
Agent More Helpful	2	11
Totals	18	100

The table shows that the parolees believed that the volunteer attorneys were more helpful to them than the paid parole agents. This is, undoubtedly, one of the strongest endorsements of the program; however, it should not necessarily be taken to indicate any superiority of service or greater ability of the attorneys, since in general they were supplementing rather than replacing the efforts of the agents. Nor is the general finding unequivocal, since in four instances the parolee indicated that his agent (who generally expended less time) had been more helpful than the attorney.

For the parole agents, the program is a mixed blessing. They do not regard it as helpful either to their own effort or to the cause of the young parolee when the attorney provides service or advice which works against their best judgment, especially

when that judgment may dictate parole revocation for technical violations or for other illegal acts. At times, attorneys may also complicate the agent's task by promising youths more than can be delivered. In one of our interviews, an agent cited with some bitterness a case in which he believed the attorney had played a particularly destructive role:

Well, one time I referred a young man who's an epileptic—a very lonely kid, has a difficult time establishing relationships of any kind. He was stood up by the attorney on several occasions, and he's the one kid in the world who shouldn't have been stood up, because he couldn't handle it since it was very difficult even getting him convinced that the program would help him. The getting stood up just reinforced the general attitude that people didn't like him much and he continued in that vein.⁵⁶

On the other hand, beleaguered by too much work and not enough resources, the parole agents harbored the hope that the attorneys might make their assignments easier. "I refer cases because of the simple fact that there's always a chance something might come out of it," one agent noted. He then provided insight into what an agent would regard as an ideal situation—an attorney-parolee relationship which made the job of the parole agent easier, and one in which the attorney's fundamental loyalty is to the agent rather than to the youth:

Well, one case in particular I feel that one of my parolees was provided friendship, comradeship, an outlet for some of his energies. He took a load off my mind. I could always count on the attorney to call me if some problems developed that he knew about. We had a close relationship with the attorney. If I could get a relationship like that with every case, I'd get everyone I could into the program.⁵⁷

Since the parole officer inevitably has to serve as an "authority figure," the parolee may feel that the officer cannot

56. Interview with a parole agent, in San Jose, California, Nov. 20, 1974. This kind of criticism of the attorneys is almost universal among the parole agents. A typical response is that of an agent who noted: "I didn't go into the program with any preconceived notions, but what I've learned is that attorneys are unreliable for the most part in terms of contacting, making appointments, returning phone calls." Interview with a parole agent, in San Jose, California, Nov. 18, 1974. The same agent said that "generally the law students are more reliable than the lawyers, more responsible."

The present coordinator noted the same problem and observed, "There are times that when I make an initial phone call to an attorney and have to leave a message, I will indicate that I am with the California Youth Authority rather than Volunteers in Parole. I feel I have more than half a chance of them returning my phone call with the former introduction." Letter from Sue Sullivan to Steve Simmons, May 22, 1974.

57. Interview with a parole agent, in San Jose, California, Nov. 20, 1974.

be trusted with information about activities that might lead to revocation or to a suspicion of illegal or undesirable behavior. Parole officers have to be "conned": that is, told what the parolee believes they desire to hear. The attorneys are able to assume more of a posture of friendship and trust.⁵⁸ More simply, the attorneys can easily make the parole agents look bad by comparison. One of the agents, who was very enthusiastic about the program, also referred to the fact that the agent's own desire to play the role of a needed person might be undercut by the VIP program: "Well, when you get all these attorneys, the parole agent sort of gets pushed off into the background, into a supervisory role. The parole agent has to be prepared for that."⁵⁹

The moral here seems evident: to be successful, the VIP program somehow has to deal more effectively with the fact that agents often feel that the attorneys, as they interact with the parolees, develop an adversary relationship with the parole officer.⁶⁰ From the agent's viewpoint, of course, this results in detrimental consequences for the youngster (the more experienced agent feels he knows what's best). For the attorney, undoubtedly one of the attractions of the program is that he may succeed where others fail. To serve merely as an extension of

58. Virtually everybody—agents, attorneys and parolees—voluntarily noted this distinction. Typical was the response of a parolee who, asked about the difference between the parole officer and attorney, observed: "She [the parole officer] can put me away, back in jail, if she wants to. She's a regular police officer, and he's a friend."

59. Interview with a parole agent, in San Jose, California, Nov. 20, 1974.

60. A fair interpretation would seem to be that the agents were generally ambivalent about the attorneys, while the attorneys often tended to be slightly condescending or critical toward the agents. It must be stressed, however, that there are many exceptions to this generalization. One of the more derogatory comments about the agents came from an attorney who was appalled that his parolee had been released right before Election Day, without housing and with little money; the parole agent had made no plans at all for the young man. The attorney told us that he wasn't impressed with either of the two agents with whom he had been associated. "It seemed like they were just putting in their time to get their pay check. I've definitely got the feeling that they haven't gone out of their way to help these kids."

It is interesting to note, in this regard, the results of a study which showed that law students appear to be "significantly more tolerant" than students in social work (a field closely identified with parole work) about matters of crime and deviance. Law students are "not particularly bothered" by such matters. J. HOGARTH, *SENTENCING AS A HUMAN PROCESS* 139 (1971). If such attitudes prevail among the participants in the VIP program in Santa Clara, they may account for one source of possible conflict. The bud of antagonism may be found in the observation of one agent about a volunteer attorney: "[H]e has represented some parolees in hearings—this is aside from his involvement with [the parolee with whom he is matched], and I think he's made a fool of himself in the hearings, but that's beside the point . . ." The throw-away phrase at the end of the observation may be taken as testimony to the ambivalence found in the agent-attorney relationship.

the parole agent, rather than as an independent and altruistic figure, may not be appealing enough to keep the attorneys attached to their commitment as volunteers.

E. *Legal Representation and Advice*

One of the strictures placed upon the attorneys participating in the VIP program was that they not represent the parolees in an attorney-client relationship,⁶¹ though they were allowed and encouraged to offer informal legal advice to the person with whom they were matched.⁶² A key reason for this restriction was the fear that such professional representation might interfere with the development of a personal and informal relationship between the parolees and the lawyer volunteers. Another basis for the regulation was the concern among correctional officials that they might be subjected to a barrage of litigation as a result of the involvement of the attorneys in the VIP program. The consequences of such litigation might make their jobs subject to even greater constraints than those under which they now operate.

61. Despite this rule, some volunteers nevertheless come to serve as attorneys for the parolees. Attorneys have said that if the parolee with whom they are matched got into trouble, they would resign from the program in order to provide him with legal counsel. Interview with a parole agent, in San Jose, California, Sept. 13, 1974. In one Santa Clara case, an attorney who had been matched with a parolee later arrested for two armed robberies was serving as his counsel, reportedly at a fee reduced from \$2200 to \$1500. The parolee informed us that he was very pleased to have a private attorney who knew him personally and whom he trusted.

62. The line between informal legal advice and professional representation is a difficult one to draw. Among the numerous kinds of legal advice given is the following example from an attorney:

He wanted to know how to evict his roommate. He was planning on getting the guy out of his apartment because he wasn't paying his rent. He had his own ideas of how he was going to do it, and I tried to get him to do it in a non-violent way. I haven't heard from him since. I don't know how it worked out, but hopefully it worked out OK.

The parolee matched with this attorney chose an altogether different incident, unmentioned by the attorney, to illustrate the value of the program in affording access to legal advice:

Well, I had some stuff come down on my head about my old lady, and we needed legal advice 'cause she had been picked up on a bunch of weird citations, so I went to find out what they were about, and what to do. The cat was alright. The cat was just there. He's a good dude. We joke around, have a good time. He shoots good pool. I like that.

The VIP coordinator also recognizes the power inherent in being a lawyer or in having a lawyer for an ally:

The attorney can help the kid in a small claims action, tell him how to prepare for it He's got a letterhead to use to get him back in school, or he can talk with an employer who just fired him, if the attorney thinks that it was unfair, or write a letter to the guy who fender-bendered his car and tell him he will take it to court if he doesn't have the insurance to pay the bill. So the letterhead, I think, is important

Interview with Sue Sullivan, Coordinator, Volunteers In Parole program, in San Jose, California, Sept. 13, 1974.

The considerable increase in the number of legal rights now afforded to persons under correctional supervision⁶³ has been of concern to these authorities, who, until recent years, had been able to operate with wide discretion. Their clients had forfeited the constitutional rights enjoyed by others because of their criminal behavior.

For the volunteer attorneys, there might appear to be a paradox in participating in a program where their best weapon for achievement, their ability to practice law, is confiscated. Their responses indicate some division of opinion as to whether this restriction ought to be made part of the program guidelines. Nine (39 percent) of the attorneys believed that they should be allowed to represent the parolee who was assigned to them, though a majority, 13 (or 57 percent), did not agree.⁶⁴ The parolees favored allowing the attorney to represent them; 59 percent (10 of 17) indicated this belief. The agents opposed such representation by an 80 percent margin (four out of five).

Almost no one objects to the attorneys providing the parolees with general legal advice. Ninety-four percent of both the attorneys and the parolees favor this procedure, as well as all five of the agents. In fact, as we have noted earlier, most of the parolees report having received such advice from the attorneys.

F. *Attitudes Toward Continuation of the Program*

Having tried it, virtually all of the participants believe that the VIP program ought to be continued. Indeed, of the 47 persons interviewed—24 attorneys, 18 parolees, and 5 parole agents—only one, an attorney, gave a neutral response when asked whether he thought the VIP program should be continued. No one said that it should be abandoned, and 37 (79 percent) indicated that it should “definitely be continued,” compared to the nine (19 percent) who somewhat less enthusiastically suggested that it “ought to be continued.”

The attorneys themselves, however, were more jaundiced about continuing their own participation in the program. Two

63. See, e.g., H. KERPER & J. KERPER, *LEGAL RIGHTS OF THE CONVICTED* (1974); S. KRANTZ, *CASES AND MATERIALS ON THE LAW OF CORRECTIONS AND PRISONERS' RIGHTS* (1973); J. PALMER, *CONSTITUTIONAL RIGHTS OF PRISONERS* (1973). See also *Gagnon v. Scarpelli*, 411 U.S. 778 (1973); *Morrissey v. Brewer*, 408 U.S. 471 (1972).

64. One attorney we interviewed said he favored allowing the volunteers to represent the parolees in civil but not criminal cases. He was asked if he thought that an attorney who lost a civil case for his parolee might not damage his relationship with the youth. He thought not: “Life isn’t perfect. And they have to learn that.”

(12 percent) were "not enthusiastic" about such a prospect, and two were only "slightly enthusiastic." Eight (33 percent) reported themselves "moderately enthusiastic"; nine (38 percent) said they were "enthusiastic" and three (16 percent) were "very enthusiastic."

It seems to us that this last response pattern is one that ought to be regarded with considerable concern when evaluating the future of the VIP program. The attorneys seem to be saying that the program is very desirable, but it is fulfilling for them personally on a relatively short-term basis only.⁶⁵ If their attitudes translate into behavior, they can be expected to drift away from involvement, necessitating a continuing process of replacement with newcomers. The availability of such a personnel pool is an important consideration in any analysis of the future of the program.

IV. A CASE STUDY

This section deals with material drawn from the personal interviews which we conducted with participants in the VIP program. Case history materials inevitably portray unique and idiosyncratic characteristics not completely generalizable to the larger pattern, just as the questionnaire responses reported earlier inevitably blur nuances and reduce to mathematical statements materials which in their qualitative form may provide deeper insights into what is happening. To gain the advantages of both perspectives, we have offered a detailed description of a single match, one chosen at random but which seems reasonably typical of the entire group.

65. Such a sense of growing fatigue with the program, which may be unavoidable, is expressed by a volunteer who has been working with VIP since late 1973, one of the longer relationships. Asked whether he would recommend the program to a colleague, he stated:

I think I'd warn him that there's a lot more to it than he may think there is. I wasn't aware of the depth of need of the boy I was paired up with, and the amount of time it would demand and the fact that it would take all the time you could give, if you wanted to. It's a bottomless pit. I don't think I was ever conscious of such an abyss of need before.

This attorney was matched with a young man who, according to the attorney, "drives around in a broken down jeep with 'CRUDE' written on the back, and is grossly overweight. He weighs 320. He doesn't wash, clean himself, take care of himself. Doesn't care, says he doesn't care. And that's obviously bullshit." The attorney notes that "I try to play cocktail psychiatrist," a role almost always adopted, though seemingly less consciously, by the other volunteer attorneys as well. We were taken aback at the easy manner in which the attorneys made off-the-cuff diagnoses of personality problems among the youngsters with whom they were working.

A. *The Attorney*

Like many of his colleagues in the program,⁶⁶ this attorney gave ambivalent responses to the VIP program and his role in it. In particular, he felt guilty because he suspected that he had not been doing all that he might for the parolee. On the other hand, he was annoyed with the rather cavalier manner in which the parolee handled appointments with him, and tended (in our judgment) to defend against his self-criticism by defining his role as that of a passive reformer, available on the parolee's initiative but otherwise not responsible. This attitude was rationalized as being in the best interests of the parolee, who, the attorney argued, needed to manage his own life more forcefully.

The following are excerpts from our discussions with the attorney.

Question: Would you recommend to another attorney that he volunteer for this program?

Answer: I would recommend that he consider all of his commitments, both at home and professionally, before embarking on something that can be very difficult.

Q.: Could you elaborate on some of your questionnaire responses?

A.: . . . I think the most important thing I can do is to listen or to be available when he needs someone to allow him to exercise some of his own responsibilities. Perhaps he's not able to, perhaps that's my own problem, but I think I'm helping to motivate him. I've listened to him, I've heard his aspirations. I know what he wants and expects out of life, and I don't laugh at him. I listen to him, I understand some of the problems he has.

I talked to him a little about a legal problem, but I didn't want to get involved because he was being represented by another attorney, and I didn't want to second-guess him

I'm kind of passive in this program. In some ways I feel bad about it; in some ways I think I'm right. . . . I call him up every now and then and say, why don't we get together, but I try to get him to come to me to some extent. Maybe that's negligence on my part, I don't know.⁶⁷

66. For a brief published view of another of the attorneys participating in the program, see Pelosi, *Speaking From Experience*, 2 IN BRIEF 23 (1975). Pelosi stresses that "the single *best thing* for me has been the opportunity to develop, without pay or promise or reward, a relationship of trust and confidence with a person whose life is, and has been, as different from mine as night and day." *Id.*

67. This is a persistent theme in interviews with the attorneys, and the oscillation between guilt and blame is notable. Notice, for instance, the similar response of another attorney:

Frankly, I've been bad about not seeing him as often as I should.

Q.: What do you hope for him in the future?

A.: I'd like him to learn to do the right thing at least once a day. So that he can build up a habit of doing right.

Q.: What is the worst thing about the program?

A.: The demands it makes on me. I feel I should be spending more time with him. I feel I should be chasing around after him to fit him into the program, and there are other demands. I have children, and I may be assuming another family with additional children, so I have my own problems and I have to see they [the children] do right so they don't end up like [the parolee]. And that's more important to me.

We had a lot of aborted meetings, so I just sort of shied away. . . . But when he got into some difficulties, he started calling, and I went down to see him, and it was really pleasant. I was sort of impressed by him. He's a likeable guy who is looking for a lot out of life.

Q.: What do you like to do or talk about most?

A.: Find out what he's doing; listen to him, seeing, basically what he thinks about life. He's groping and I enjoy just letting him grope. Not in the sense of letting him struggle, though. To let him discuss his philosophy of life is important.

Q.: How about legal advice?

A.: Apparently he was arrested for a burglary, and he wanted to tell me about it. He also wanted to tell me he was dissatisfied with his private lawyer and both his mother and he were dissatisfied with the fee. They didn't understand the charging system, and that's basically what we discussed.

Q.: Why do you think he volunteered?

A.: I find [the parolee] to be a person who very much wants to be approved of, to please others. I think when this program came down, he just said yes. I think that is his biggest problem, to say yes to everybody. He can't say no. He has trouble taking control of his own destiny.

Q.: Would you have preferred to have been matched with someone different?

A.: No, that would be unfair to [the parolee]. The only thing is, I feel guilty that I haven't gotten after him more. I think that maybe I should. I'm starting to get to that point

My schedule's been pretty tight, and he hasn't contacted me. I'm going to have to try to shift the burden on him now, let him carry the load of contacting me. The last thing we scheduled, he didn't make it. We were going to bowl, and he didn't show. I haven't been persistent enough, and he's hard to get a hold of, so I haven't been able to arrange another meeting. It's been about three weeks or so, or a month.

now. That I should be more aggressive. Maybe his fears of me are greater than my fears of him.

Q.: Have your attitudes toward the correctional system changed?

A.: I think it's screwed up. . . . I think now that parole agents and officers are much more sensitive and innovative than I have previously expected. They're trying to be human.

Q.: Have you benefited in any other way?

A.: Well, the program has made me think and realize how much more we need to do in the area of working with these individuals. Made me look deeper within myself to see how other people are living and reacting, and trying to figure out from them what I can teach my children. It teaches me the needs they have. It's like looking at failures. We have to take into account failures on society's part, parents' part, and his part too, and see what causes them. And that helps me with my kids and that's probably the best part of the program.⁶⁸ I think I'm learning more from him than I'm giving him.

Q.: Any program suggestions?

A.: I think the program should have more activities where the parolees meet with other parolees and also with their volunteers in a setting in which they discuss their problems, like anger toward their parole officers, their frustration in jobs. A lot more volunteers should be taken from the cultural and socioeconomic environment that the parolees came from. Just successes. The one thing these people really want and need is empathy with you, and you don't have empathy unless you've had the same experiences.

Q.: Do you think the parole agent appreciates your help?

A.: I don't have any idea.

Q.: What part of the meeting [with the parolee] were you least prepared for?

A.: His physical presence. I envisioned him to be a little bigger, little harder individual, and he's just a scared, little person. Just that.⁶⁹

68. The recurrence of this theme rather surprised us. Thus, a second attorney noted: "I've met his family, and I can see immediately how his problems developed, and it's helped me see what not to do in my own family, maybe."

69. We had not anticipated that so many of the responses would have reference to physiognomy, but they did. Another typical answer was that of a female law student volunteer matched with a former heroin addict: "She was quite attractive. I think I had a mental image of all heroin addicts being ugly. I don't mean ugly; just not attractive. She's very attractive. I think that ruined a stereotype. It's good that it ruined a stereotype." In this match, the response has a certain mutuality, which was unusual. The parolee noted that she had "expected

Q.: What is your opinion of the coordinator's job of running the program?

A.: She's been keeping after my rear end. Just to catch me is pretty good. She's able to keep after me, embarrass me [laugh], but that's really what I needed, I think. She does a good job.⁷⁰

B. *The Parolee*

Parolees tended to report higher regard for the program and its participants than the attorneys, as we noted earlier. For them, of course, the program clearly was heavily weighted with benefits. Unlike the attorneys, they were not apt to regard their time as money. And they were more likely than the attorneys to see the failure of the match as a matter of relative unimportance. For the attorneys, there was a considerably greater ego involvement in making a success of the relationship, and attorneys as a group may be presumed to be more success- and task-oriented than the parolees.

The parolee matched with the attorney whose responses are reported above adds another dimension to the attorney's perceptions and the numerical portraits in the preceding section.

Q.: How would you describe the program?

A.: You get a volunteer that would help you out, make sure you're living under a roof and not starving. He would give you information where to go, and where not to go.

Q.: Describe your experiences in the program, please?

A.: When I got busted, I talked to him to see what would happen. Another attorney would charge. A parolee agent wouldn't know these things. He can give you more information on things like welfare and jobs too. At times, I didn't need him, but when I had something to do with the law, I did.

Q.: What's the best thing about the program?

A.: I'm able to talk to people who want to hear me, and are willing to donate their time without no charge.

Q.: Was meeting with him different than expected?

A.: Meeting with him was a great joy. At first, he thought I rejected him, but I'm not. I thought he would be a high-class or middle-class person, but he talks my language.

Q.: What do you like to talk about most?

some old bag that was going to write down all this legal stuff on me." Instead, she found a woman not much older than herself.

70. This was the universal judgment of those persons we interviewed; generally they ranked the coordinator's performance either "4" or "5" on a 5-point scale. Any attempt to evaluate factors crucial to the program's success must take into account the outstanding job done by the administrator.

A.: Law.

Q.: What do you like to talk about least?

A.: I wouldn't like to talk about nothing about sex with him, or fighting.

Q.: What kind of guy is the lawyer?

A.: I haven't really studied his personality, what he's like inside.

Q.: Why do you think he volunteered?

A.: Because he wanted to help.

Q.: Do you think he has learned anything from you?

A.: Some. About blind justice.

Q.: Do you plan on continuing the relationship?

A.: Yeah. Invite him to a few places, him invite me to a few places.

Q.: How is he different from [your parole officer]?

A.: He gave me more advice on law and other things.

Q.: Are there any needs of the parolee this program doesn't deal with?

A.: Loaning me bread. Them paying for my finance due and charges and other debts.

Q.: What's your biggest problem now?

A.: Drugs. Protecting myself on the street.

Q.: Should the program be continued and, if so, are there any changes you'd like to see?

A.: It should be continued. I would like big parties, with chaperones.

C. *General Remarks on the Case*

In regard to this match, the parole agent indicated that he had induced this particular parolee to join the VIP program because he needed a friend and required some practical advice and assistance, as well as a "role model." The agent thought the parolee's chances of remaining out of jail stood at about "2" on a 5-point scale if he did not participate in the VIP program, and would go up to "3" if he was a part of the program.

In fact, however, the parolee was arrested for burglary shortly after he enrolled in the program, though no complaint was filed. This event indicates, to some extent, the difficulty of appraising the program in terms of recidivism statistics. For one thing, the very existence of the program is apt to mitigate the consequences of criminal behavior: that is, prosecution is less likely because the attorney volunteer provides a community resource that could be helpful in deterring future criminal activity. This is particularly true given the growing belief within

the criminal justice system that incarceration is likely to be counterproductive and should be resorted to only if it seems absolutely necessary as a matter of social protection. In addition, legal advice by volunteer attorneys to program participants might well create the appearance of less criminal activity among VIP participants, whereas the only real change is an emerging sophistication in dealing with offenses so that they do not find their way into official statistics.⁷¹ Further, as in the case under discussion, the recidivous event need not be regarded as a fundamental failure; it can be a catalytic episode which provides a focus for the beginning of volunteer-parolee interaction.

It might be noted, more generally, that since recidivism statistics record an official response to an act, rather than the act itself, they are subject to considerable distortion. For every crime that appears in the statistics, innumerable others escape official notice.⁷² The most sophisticated measure of recidivism would be *accurate* reports by the parolees of what they had done since coming under the aegis of the intervention program. Otherwise, recidivism measures, even with large numbers of persons involved in the tabulation, must be regarded with very great skepticism. We have not made diligent efforts to gather such information in this report, on the assumption that it would provide only a veneer of useful information, rather than the information itself.

V. CONCLUSIONS

In many ways, the foregoing materials speak for themselves, though they do not indicate in any definitive way whether this program is truly worthwhile or whether it ought to be abandoned and the money used for other purposes. Ultimately, such a decision has to be made in terms of the personal and social goals of the individual assaying the available evidence. That evidence can be stated and summarized, hopefully in a fair and judicious manner, but it cannot be weighed, because there is no proper scale that can be used to reach an accurate balance.⁷³

71. Note, in this regard, the observations of one of the parole agents: "I think that if [the parolee] hadn't gotten involved in the Aide program that he would have spent some time in jail for driving without a license." Interview with a parole agent, in San Jose, California, Nov. 18, 1974. Another agent remarked, "The relationship with the attorney has helped a few of my kids from being sent to jail." Interview with a parole agent, in San Jose, California, Nov. 20, 1974.

72. Biderman & Reiss, Jr., *On Exploring the "Dark Figure" of Crime*, 374 ANNALS 1 (1967).

73. This section is designed to be responsive to the plea of Ivan H. Scheier, the major figure in the area of volunteerism, who has commented, "We badly need the balanced judgment of the researcher, detached from our emotions, our wishful

Clearly, in rather prosaic ways, the program has worked. Attorneys have met with parolees who volunteered to participate in the program. Parole agents generally have accepted the operation, though with varying degrees of grace. All parties subscribe to the idea that the accomplishments merit continuation of the program. That alone—the absence of harsh cries for revision or discontinuance—is no small achievement. In short, the program is workable, and the participating parties find what has been done worth continuing.

In terms of cost, the program may reasonably be regarded as an extraordinarily inexpensive enterprise in these days of astronomically expensive social interventions. It costs less than \$20,000 a year in money directly appropriated for its operation. That amount is used to fund one part-time coordinator, and to pay for a variety of operating expenses—advertisements, telephone bills, and similar items. Obviously, the parole agents' time is diverted in ways that in the final analysis can be said to cost money, particularly if other personnel must perform tasks left unattended by the diversion of energies to VIP tasks. But this assuredly is a very minor fiscal matter when compared to the astonishingly large amount of free services rendered to state wards by unpaid volunteers under the auspices of the VIP program. At the usual rate of \$40 to \$60 an hour, the attorneys probably contribute a sum of talent that, were it turned to professional endeavors, might conservatively be worth \$100,000 a year. Is it socially or personally desirable that such resources be put to use in the VIP program? Might not the attorneys better devote their time to *pro bono* work or to other types of endeavors which could make them more effective practitioners or contribute to society on a grander scale?

In the final analysis, we would be inclined to argue that a program with as much internal support as this one has generated deserves the benefit of the doubt. It is very cheap; it is ubiquitously accepted. Why not, therefore, encourage it?

The question inevitably arises: Is it effective? Does the program accomplish things that make it worth perpetuating? One answer has been provided by an attorney involved in VIP. "I wish they'd refund it," she said. "If there's more people like [the parolee] who can be helped just a tiny bit, then it's worth it."⁷⁴ Our evidence is rather stronger. We found innumerable

hoping, and our hopeful wishing, but not detached from our problems." Scheier, *Needs of Research and Volunteer Programs*, in *INSTITUTE ON RESEARCH WITH VOLUNTEERS IN JUVENILE DELINQUENCY* 7 (P. Zelhart & H. Plummers eds. 1970).

74. Another attorney commented in much the same vein:

I think the program should be continued, because it's bound to help

instances of persons who clearly were helped by the VIP program. The lawyer just quoted, for instance, was instrumental in keeping her parolee from leaving the jurisdiction and thereby facing revocation of her parole. The same attorney, in the face of more than a dozen missed appointments, nonetheless finally succeeded in seeing that the five-months pregnant parolee was taken to a doctor for proper medical attention. The roster of achievements can be expanded considerably. Jobs were located, school plans developed, and fellowship shared, among many other things. This does not necessarily mean that other resources would not have been located had the VIP program not been available, nor does it speak directly to the issue of whether the parolees might have committed more offenses without the program. But it strongly suggests valuable results flowing from program work.

There seems to be no question that the VIP program is unnecessarily limiting its applicability and scope by concentrating on attorney volunteers. There was agreement among the respondents—agents, attorneys, and parolees alike—that the program ought to be widened to include other persons with interest and expertise in doing the kind of volunteer work the attorneys are now undertaking. Retired persons, members of minorities (particularly Mexican-Americans, because of the ethnic makeup of the parolee caseload), and former prison inmates were among those groups of individuals mentioned most prominently as prospective volunteers.⁷⁵

Evaluating the use of attorneys as volunteers involves the balancing of a number of relatively intangible assets and drawbacks. Their leading virtue, it appears, is their ability to manipulate the system, to know what to do about any legal and quasi-legal problems that beset the parolees. Their weakness as volunteers seems to be a function of their erratic schedules and

somewhere. I don't know how much it's going to help or how much it's going to change people's lives by trying to help them. I don't know how much time you can expect attorneys to put into something like this. I think there are a lot of attorneys around who have said they would put time into it, but they haven't. But there's an uncertainty in everything that you do. I think it's a good thing and it should continue.

75. Additional suggestions for the possible improvement of the VIP program included these: having the attorney volunteer meet the parolee for the first time while he or she is still in the institution; establishing a closer monitoring system for each relationship, with the director receiving regular reports from the attorney on how things are going; encouraging the attorneys to participate in the selection of the parolees with whom they will work, so that they will have an extra investment in the success of the relationship; and establishing panels of attorneys to assist parolees with specific problems on a short-term basis. It was also believed that too much emphasis might have been placed on the number of matches rather than on their quality.

the entrepreneurial nature of their occupation. As a group, the time pressure of their work often makes them unreliable in such mundane matters as keeping appointments with their parolees. In one of her more depressed moments, for instance, the program coordinator included the following bitter comment in her monthly report:

Then this morning I received a note that a parolee is moving and his volunteer hasn't seen him in quite awhile. So I talked to the volunteer right away, and he indicated he has been busy, which brings me to one of my gripes. With the exception of a few, attorneys are crummy volunteers.⁷⁶

The Volunteers in Parole program has not been a totally unqualified success. And it has not succeeded in keeping all parolees from committing further criminal acts. Some parolees undoubtedly have suffered injuries they might otherwise have escaped. Our report has noted cases in which attorneys promised to do certain things and then failed to keep their promises, thereby further embittering an already cynical young person. But the equation between act and consequence is far from clear; indeed, some paragons trace their turn to virtue to a moment when they decided that they had only themselves to rely upon and had better get on with it. In this regard, some of the parolees who escaped the more serious consequences of their behavior because of the intervention of the attorneys might have learned a lesson society would have preferred that they not learn.

But this is speculation. The program is hardly a panacea, but nobody was coerced into the VIP program nor forced to remain with it, and the program's record shows that good things, decent and helpful things, were done for persons who throughout their lives had been neglected and overlooked by society. From that perspective, dramatics aside, it might reasonably be argued that the VIP program represents a worthwhile endeavor, one that reflects considerable credit on its participants. This, on the evidence we have gathered, is our judgment.

76. Letter from Sue Sullivan to Steve Simmons, July 10, 1974.