

This page is located on the NYC.gov Web site at
<http://www.nyc.gov/html/prob/html/about/history.shtml>

Brief History of Probation

PROBATION - A term coined by John Augustus, From the Latin verb "probare" - to prove, to test.

The origins of probation can be traced to English criminal law of the Middle Ages. Harsh punishments were imposed on adults and children alike for offenses that were not always if a serious nature. Sentences such as branding, flogging, mutilation, and execution were common. During the time of King Henry VIII, for instance, no less than 200 crimes were punishable by death, many of which were minor offenses.

This harshness eventually led to discontent in certain progressive segments of English society concerned with the evolution of the justice system. Slowly, yet resolutely, in an effort to mitigate these inhumane punishments, a variety of measures were devised and adopted. Royal pardons could be purchased by the accused; activist judges could refrain from applying statuses or could opt for a lenient interpretation of them; stolen property could be devalued by the court so that offenders could be charged with a lesser crime. Also, benefit of clergy, judicial reprieve, sanctuary, and abjuration offered offenders a degree of protection from the enactment of harsh sentences.

Eventually, the courts began the practice of "binding over for good behavior," a form of temporary release during which offenders could take measures to secure pardons or lesser sentences. Controversially, certain courts in due time began suspending sentences.

In the United States, particularly in Massachusetts, different practices were being developed. "Security for good behavior," also known as good aberrance, was much like modern bail: the accused paid a fee as collateral for good behavior. Filing was also practiced in cases that did not demand an immediate sentence. Using this procedure, indictments were "laid on file" or held in abeyance. To mitigate unreasonable mandatory penalties, judges often granted a motion to quash based upon minor technicalities or errors in the proceedings. Although these American practices were genuine precursors to probation, it is the early use of recognizance and suspended sentence that are directly related to modern probation.

Two names are most closely associated with the founding of probation: Matthew Davenport Hill, an 18th century English barrister and judge, and John Augustus, a 19th Century Boston boot-maker.

As a young professional in England, Hill had witnessed the sentencing of youthful offenders to one-day terms on the condition that they be returned to a parent or guardian who would closely supervise them. When he eventually became the Recorder of Birmingham, a judicial post, he used a similar practice for individuals who did not seem hopelessly corrupt. If offenders demonstrated a promise for rehabilitation, they were placed in the hands of generous guardians who willingly took charge of them. Hill had police officers pay periodic visits to these guardians in an effort to track the offender's progress and to keep a running account.

John Augustus, the "Father of Probation," is recognized as the first true probation officer. Augustus was born in Woburn,

Massachusetts, in 1785. By 1829, he was a permanent resident of Boston and the owner of a successful boot-making business. It was undoubtedly his membership in the Washington Total Abstinence Society that led him to the Boston courts. Washingtonians abstained from alcohol themselves and were convinced that abusers of alcohol could be rehabilitated through understanding, kindness, and sustained moral suasion, rather than through conviction and jail sentences.

In 1841, John Augustus attended police court to bail out a "common drunkard," the first probationer. The offender was ordered to appear in court three weeks later sentencing. He returned to court a sober man, accompanied by Augustus. To the astonishment of all in attendance, his appearance and demeanor had dramatically changed.

Augustus thus began an 18-year career as a volunteer probation officer. Not all of the offenders helped by Augustus were alcohol abusers, nor were all prospective probationers taken under his wing. Close attention was paid to evaluating whether or not a candidate would likely prove to be a successful subject of probation. The offender's character; age; and the people, places, and things apt to influence him/her were all considered.

Augustus was subsequently credited with founding Investigations, one of three main concepts of modern probation, the other two being Intake and Supervision. Augustus, who kept detailed notes on his activities, was also the first to apply the term "probation" to this process of treating offenders.

By 1858, John Augustus had provided bail for 1,946 men and women, young and old. Reportedly, only ten of this number forfeited their bond, a remarkable accomplishment when measured against any standard. His reformer's zeal and dogged persistence won him the opposition of certain segments of Boston society as well as the devotion and aid of many Boston philanthropists and organizations. The first probation statute, enacted in Massachusetts shortly after his death in 1859, was widely attributed to his efforts.

Following the passage of that first statute, probation spread gradually throughout the United States and subsequently to many other countries. The juvenile court movement contributed greatly to the development of probation as a legally recognized method of dealing with offenders. The first juvenile court was established in Chicago in 1899. Formalization of the concept of Intake is credited to the founders of the Illinois juvenile court. Soon after, thirty states in turn introduced probation as a part of juvenile court procedure. Today, all states offer both juvenile and adult probation.

The administrative structure of probation varies widely from state to state. In some states, probation and parole are combined. There are state-administered probation systems and locally administered systems. In New York, probation is locally administered under the general supervision of the state.

Probation in New York State had its official beginning in 1901, with the enactment of the first probation in the state. One of the commission's recommendations in its report to the Legislature resulted in the creation of the New York State Probation Commission in 1907. Until the late 1920s, this commission coordinated probation work in various parts of the state, encouraging the statewide development of probation services, the planned and promoted standards of practice, and guidelines for monitoring local probation services.

In 1917, a State Division of Probation was established within

the NYS Department of Corrections, and in 1928 the Office of the Director of Probation was created. The State's Division of Probation remained within the Department of Corrections until 1970 when it was organized as a separate state agency within the Executive Department. The Director of the NYS Division of Probation then became a gubernatorial appointee, directly accountable to the governor.

As a result of additional statutory changes, local probation departments, which prior to the early 1970s were responsible to the judiciary, followed the NYS Division of Probation's lead. In 1974, all local probation directors were made accountable to their respective chief county officials, or in the case of New York City, the mayor.

In 1984, the Classification/Alternatives Law expanded the authority of the state division. The name was changed to the New York State Division of Probation and Correctional Alternatives, enhancing the division's ability to foster the development and effective implementation of local community-based corrections.

At present, the New York City Department of Probation is second only in size to the Los Angeles County department.