District of Idaho



The federal probation system dates to 1925 when President Calvin Coolidge signed into law the Probation Act. Probation had its roots in the practice of judicial reprieve which was used in English courts to serve as a temporary suspension of sentence to allow a defendant to appeal to the Crown for a pardon. The first recognized probation officer in the United States was John Augustus, a volunteer who approached a Massachusetts local court to allow "drunkards" to be placed under his direction while on bail with an understanding that the case would be dismissed upon favorable treatment by Augustus. Although for nearly a century some federal judges had engaged in the practice of a form of probation by suspending sentences of certain defendants, this practice ended in 1916 when the Supreme Court ruled in Ex parte United States, 242 U.S. 27 that federal judges had no such legal authority. A major effort to enact legislation to establish a probation system, which interestingly had to overcome the opposition of many federal judges and the Department of Justice, ensued. At the time the Probation Act became law, thirty states and at least twelve countries had already established probation systems.

From the outset, federal probation officers were charged with the responsibility of conducting investigations of any case referred to them by the Court and supervising defendants placed on probation in the community. Originally under the auspices of the Attorney General, the federal probation system was administered by the director of the Bureau of Prisons. This remained so until 1940 when responsibility for the administration of the system was transferred to the Administrative Office of the U.S. Courts which had been established a year earlier. Commencing in 1930, federal probation officers assumed responsibility for supervision of federal parolees who were under the jurisdiction of the Department of Justice. In 1946, the federal probation system agreed to supervise military parolees who had been released from disciplinary barracks administered by the Army and Air Force. Most of the presentence investigations conducted during this period were for violations of the Volstead Act (prohibition of alcoholic beverages), Dyer Act (interstate transportation of stolen motor vehicles), and the White Slavery Act. From a total of eight probation officers nationwide in 1930, staff grew to 303 by 1950 and the supervision caseload to 30,087.

The years 1950 to 1975 represented the high water mark of the rehabilitation (or treatment) model in federal sentencing and probation supervision. In this connection, sentencing alternatives expanded with passage of the Youth Corrections Act in 1950 (related to the sentencing and supervision of defendants aged 18 to 26); the Indeterminate Sentencing Act of 1958 (relating to adult defendants); the Criminal Justice Act of 1964 and the Prisoner Rehabilitation Act of 1965 (which established home furloughs, work release programs and community treatment centers); and the Narcotic Addict Rehabilitation Act of 1966 (relating to drug treatment for addicted parolees). These years were also marked by an increased professionalization of the probation service in terms of higher qualifications for appointment, increased training programs under the newly established (in 1967) Federal Judicial Center, and higher standards for work performed. Staff grew to 1,148 and the supervision caseload to 59,534.

The years since 1975 have witnessed two major events for the system: the rehabilitation model in sentencing and supervision has been supplanted by the crime control model, and pretrial services was established as a major component of the federal probation system. With respect to the former, enactment of the Comprehensive Crime Control Act of 1984 (which included the Sentencing Reform Act of 1984) was the watershed event. It replaced indeterminate sentencing then in place with a determinate sentencing system and established the U.S. Sentencing Commission which was charged with the task of promulgating sentencing guidelines; it elevated probation to a sentence in and of itself, eliminated parole, and established supervised release as the new form of postconviction supervision; and, it reformed the "good time" provisions relating to service of prison sentences to a maximum of 54 days annually after completion of the first year of a sentence, thereby markedly increasing the percentage of a sentence which would actually be served in prison before release to the community. Another important event was the adoption of the Enhanced Supervision philosophy, concretized in a 1991 monograph Supervision of Federal Offenders, which focused on enforcement of court-imposed sanctions, risk control, and correctional treatment. These developments, together with major technological changes, spawned a variety of new officer specialties, including guidelines specialists, drug and alcohol treatment specialists, mental health treatment specialists, and electronic monitoring treatment specialists. A shifting prosecutorial emphasis on drug traffickers, generated in part by Congressional passage of

mandatory minimum sentences for certain drug trafficking offenses in the late 1980s, has dramatically affected the composition of supervision caseloads to the point where approximately 40% are drug offenders. Moreover, whereas in 1975 more than two-thirds of those on supervision were probationers, today approximately 70% are supervised releasees.

With respect to the latter, following the pretrial services demonstration project of the 1970s, Congress enacted the Pretrial Services Act of 1982 which provided for the establishment of pretrial services in every district. The probation offices in small and medium sized districts most often absorbed the pretrial services function, while separate pretrial services offices were established in many larger districts. The basic pretrial services responsibilities are to conduct bail investigations for the court and to supervise those defendants placed on pretrial supervision by the court. The Bail Reform Act of 1984 was an important event for pretrial services in that it permitted the court to consider danger to the community in setting bail conditions and to deny bail altogether where a defendant posed a grave danger to others. The ensuing years have witnessed a professionalization of the pretrial services function, especially with respect to the establishment of standards in monographs for report writing and supervision efforts. Pretrial services has thus become an integral part of the U.S. Probation & Pretrial Services system.

For more information see: Evjen, Victor. H. "The Federal Probation System: The Struggle to Achieve It and It's First 25 Years," *Federal Probation* (June 1975): 3 -15.