



PROFITING FROM **THE POOR**

A REPORT ON PREDATORY PROBATION
COMPANIES IN GEORGIA

THE LAW OFFICE
OF THE
SOUTHERN
CENTER FOR
HUMAN
RIGHTS

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A flawed system: for-profit misdemeanor probation in Georgia

In courts around Georgia, people who are charged with misdemeanors and cannot pay their fines that day in court are placed on probation under the supervision of private, for-profit companies until they pay off their fines. On probation, they must pay these companies substantial monthly “supervision fees” that may double or triple the amount that a person of means would pay for the same offense. For example, a person of means may pay \$200 for a traffic ticket on the day of court and be done with it, while a person too poor to pay that day is placed on probation and ends up paying \$500 or more for the same offense.

The privatization of misdemeanor probation has placed unprecedented law enforcement authority in the hands of for-profit companies that act essentially as collection agencies. These companies, focused on profit rather than public safety or rehabilitation, are not designed to supervise people or connect them to services and jobs. Rather, they charge exorbitant monthly fees and use the threat of imprisonment and a variety of bullying tactics to squeeze money out of the men and women under their supervision.

For too many poor people convicted of misdemeanors, our state is not living up to the constitutional promise of equal justice under law.

Corruption and the spread of private probation companies

Bobby Whitworth, Former Chairman of the Georgia Board of Pardons and Paroles, was convicted of influence peddling for his role in passing legislation that substantially increased the use of for-profit probation in Georgia. The law he helped pass, SB 474, effectively transferred supervision of 25,000 misdemeanants from the State Department of Corrections to individual counties. Private probation companies – eager to move in and obtain lucrative contracts in the individual counties – stood to benefit greatly from this change in the law.

On the day before the final approval of SB 474, Whitworth, a state official, accepted \$75,000 from Detention Management Services, a probation company (later bought by Sentinel Offender Services) that stood to benefit from the bill. Although Whitworth claimed that the money was for other services, a court found that he “strongly encouraged” passage of the bill. The payment, moreover, was later recorded in the probation company’s books as payment for help in passing the bill.

Although Whitworth was convicted and sentenced to six months in prison for his role in passing the bill, the law is still in force today. Many new for-profit probation companies opened their doors for business as a result of Whitworth’s law.

Widespread Use of For-Profit Probation to Collect Money from the Poor

- There are currently 39 for-profit probation companies in Georgia that function in 635 courts across the state.
- Courts may contract with for-profit companies to supervise people convicted of misdemeanors.
- Many misdemeanors are crimes related to poverty, like driving without insurance, loitering, or passing bad checks. A substantial number of those who come before misdemeanor courts are poor.
- In many courts throughout Georgia, every single person who cannot pay her misdemeanor fine that day is placed on probation.

Probation Mills: In Augusta, a person approaches the judge's bench to be sentenced for a traffic violation. The judge tells her, "The fine for that is \$280. Do you need time to pay that?" If the defendant says she does, she is sentenced to a year's probation. Every week, courts like Augusta's churn out hundreds of people who are on probation only because they are poor.

WHY GEORGIA SHOULD ABOLISH FOR-PROFIT PROBATION

Reliance on for-profit probation companies leads to unequal justice for poor people.

Americus, GA: One high school student convicted of violating the terms of his learner's permit served seven months on probation and paid a total of \$505. Had he been able to pay the fine the day he was sentenced, he would have paid only \$155.

The poor pay more: The use of for-profit probation means that poor people often must pay double or triple what a person of means pays for the same offense. Standard probation fees are \$35 to \$44 a month, adding up to between \$420 and \$528 over the course of a year.

Unnecessary supervision: The use of for-profit probation companies to collect money from people convicted of minor traffic offenses does not further public safety. Someone who is unable to pay her speeding fine is not a threat to society.

Risk of incarceration: Unnecessary probation carries the risk of unnecessary incarceration. People on probation may be arrested for technical violations, like missing a meeting. Someone who can pay herself out of the system on the day of court, on the other hand, is not at risk of seeing the inside of a jail, even if her underlying charges are the same as the person on probation.

Pursuit of profits distorts the goals of probation and encourages abuse

People placed under the supervision of private companies are often required to report to probation every month. These monthly meetings often consist exclusively of money collection. People pay their money order at the front desk and then wait to see their probation officer. The probation officer asks them if they paid, how much, whether they have any new charges, and then schedules them for the next meeting. Any underlying issues of substance abuse, unemployment, family instability, or lack of housing are likely to go unaddressed.

One low-wage laborer in Lawrenceville was placed on probation when he did not have the money to pay a loitering fine. He saw his probation meetings multiply and accelerate when he could not make a full payment. The missed work ultimately cost him his job.

In many cases, these companies provide few services, minimal case management, and no meaningful supervision. The less they do and the less time they spend on each case, the higher their profits.

Common reported abuses by probation companies include the following:

- Probation officers may threaten people with arrest or tell them not to report if they are unable to make a probation payment.
- Some companies take their monthly fees first, so a person who cannot make substantial payments is unable to make progress on her fines.

Common reported abuses continued

- In many cases, probation companies continue to schedule appointments and seek money from people even after their probation has expired.
- Probation officers routinely fail to inform people on probation that they can convert their fine into community service.
- Some probation officers refuse to allow people to transfer to another jurisdiction or convert their fine into community service until they have paid a certain amount of money.
- Probation officers often refuse partial payments. If people do not report with the full amount owed, they may be turned away.
- If a person is unable to make a full payment, her probation officer may reschedule her for numerous meetings, pressuring the person to scrape the money together.

The threat of incarceration should not be used to extract money from poor communities.

Threats: Some probation officers threaten people with arrest if they do not bring enough money. When people fail to report to probation for fear of arrest, they may then be arrested for failure to report.

Pressure on probation officers: Probation officers' earnings may be linked to the money they collect. In at least one company, if an officer collects full payments from a certain percentage of those on her caseload, she may qualify for a bonus. If she does not collect a full monthly payment from enough people on her caseload, she may be fired. Probation officers can remove people from their caseload by taking out warrants on them. This creates a financial incentive for a probation officer to seek a warrant against a person who is too poor to pay.

Extraction by incarceration: In many cities in Georgia, probation violation warrants include an amount of money the probationer can pay to have the warrant cancelled. When a person's liberty is at stake, his family will often borrow and/or spend what little money they have to free him. The company gets its money, but the family may go without money for rent or the light bill.

Practices Cloaked in Secrecy

In 2006, the General Assembly passed a law that permits for-profit probation companies to keep their records secret. Ga. Code Ann. § 42-8-106 states that “all reports, files, records, and papers of whatever kind relative to the supervision of probationers by a private corporation...are declared to be confidential.” After receiving several complaints about one for-profit probation company, the Southern Center for Human Rights attempted to obtain its standard operating procedures. Citing Ga. Code Ann. § 42-8-106, the company refused to provide SCHR with any documents regarding its operations. Probation companies are using Ga. Code Ann. § 42-8-106 to shield their operations from public scrutiny. The law must be repealed.

2007: Probation companies attempt to further increase their profits.

In 2007, lobbyists representing for-profit probation companies in Georgia attempted to expand the reach of private probation companies. They lobbied for legislation that would allow probation companies to supervise people convicted of over 90 types of felonies ranging in seriousness from child molestation to shoplifting to credit card fraud. Private companies also lobbied for a law that would permit them to charge every misdemeanor probationer – even a person convicted of a traffic offense – a minimum monthly fee of \$50 for their services. Felony probationers, by contrast, pay the state \$23 per month for probation supervision.

A combined effort from judges, Sheriffs, and advocates resulted in these provisions failing to pass the General Assembly in 2007. However, the Private Probation Association of Georgia has pledged that it will continue its efforts to enter into the business of felony probation supervision

**The Southern Center for Human Rights
is seeking an end of the use of for-profit
probation in Georgia.**

**Please join us to fight for fairness and justice
in Georgia's courts.**

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