

Congress of the United States

Washington, DC 20515

July 26, 2024

C. Keith Ward
Chairman and Chief Executive Officer
Professional Probation Services
327 South Hill Street, Bldg. A
Buford, GA 30518

Dear Mr. Ward:

We are deeply concerned about the operations of the private probation industry. Private probation fees are part of a matrix of charges throughout the criminal system that have resulted in roughly 10 million Americans owing \$50 billion in criminal justice debt.¹ In response to minor misdemeanors, the industry charges fees that functionally penalize individuals for living in poverty,² and some companies engage in egregious fee-collection abuses.³ Because your company is a key player in the private probation market, we seek additional information to better understand your operations.

Around 2.9 million Americans are currently on probation⁴ — a court-imposed sentence that individuals serve outside of jail under strict conditions governing daily life, and that can be revoked for violations and converted to jail time. Many end up on probation simply because they are charged with a minor misdemeanor or traffic offense and cannot afford to pay the court fine on the date of their court hearing.⁵ They may be placed on probation for months, or even years, as they attempt to pay down the fine.⁶ Indeed, a growing number of people remain on probation simply due to unmet “financial conditions,” such as outstanding fines, fees, and restitution

¹ Brennan Center for Justice, “Charging Inmates Perpetuates Mass Incarceration,” Lauren-Brooke Eisen, May 21, 2015, <https://www.brennancenter.org/our-work/research-reports/charging-inmates-perpetuates-mass-incarceration>; National Public Radio, “State-By-State Court Fees,” May 19, 2014, <https://www.npr.org/2014/05/19/312455680/state-by-state-court-fees>.

² Brennan Center for Justice, “Criminal justice debt: a barrier to reentry,” Alicia Bannon, Mitali Nagrecha, Rebekah Diller, October 4, 2010, p. 1, 13, <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.

³ *See, e.g.*, Law Office of the Southern Center for Human Rights, “Profiting from the Poor: A Report on Predatory Probation Companies in Georgia,” July 2008, p. 6-7, https://www.schr.org/files/profit_from_poor.pdf.

⁴ Prison Policy Initiative, “Punishment Beyond Prisons 2023: Incarceration and supervision by state,” Leah Wang, May 2023, <https://www.prisonpolicy.org/reports/correctionalcontrol2023.html>.

⁵ Human Rights Watch, ““Set up to Fail”: The Impact of Offender-Funded Private Probation on the Poor,” February 2018, p. 2, https://www.hrw.org/sites/default/files/report_pdf/usprobation0218_web.pdf.

⁶ Russell Sage Foundation Journal of the Social Science, “Private Probation Costs, Compliance, and the Proportionality of Punishment: Evidence from Georgia and Missouri,” Beth M. Huebner and Sarah K.S. Shannon, 2022, p. 193, <https://irl.umsl.edu/cgi/viewcontent.cgi?article=1017&context=ccj-faculty>.

payments.⁷ The U.S. population on probation is disproportionately Black, with one in every 23 Black people in the United States under supervision, compared to one in every 81 white people.⁸

In recent decades, probation management has become increasingly privatized: some jurisdictions manage probation themselves, but in at least a dozen states, jurisdictions are permitted to outsource misdemeanor probation supervision to private companies.⁹ These companies are tasked with collecting individuals' court debt and, in theory, providing supervision services.¹⁰ Rather than charging the local jurisdiction, the companies charge the individual on probation a fee for their own supervision. On average, individuals pay a supervision fee of \$30-60 per month¹¹ — along with additional fees for initial enrollment, rescheduled appointments, alcohol or electronic monitors, drug tests, underpayments, and more.¹² Often, these junk fees are “untethered to actual costs.”¹³ All told, individuals often end up paying hundreds or thousands of dollars in extra fees to a probation company — in some cases, several times the amount owed for the original court fine.¹⁴ For example, one person famously saw his probation fines and fees reach over \$1,000 for shoplifting a \$2 can of beer, while another saw her traffic ticket for \$41 balloon into hundreds of dollars of debt due to a probation company's fees.¹⁵

⁷ U.S. Department of Justice, Bureau of Justice Statistics, “Probation and Parole in the United States, 2021,” February 2023, p. 7, <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/ppus21.pdf>.

⁸ Human Rights Watch and ACLU, “REVOKED: How Probation and Parole Feed Mass Incarceration in the United States,” July 2020, p. 38, https://www.hrw.org/sites/default/files/media_2020/07/us_supervision0720_web_1.pdf.

⁹ In These Times, “In Small-Town Georgia, A Broken Taillight Can Lead to Spiraling Debt,” Nick Barber, July 18, 2022, <https://inthesetimes.com/article/small-town-georgia-predatory-private-probation-debt>; see, e.g., Russell Sage Foundation Journal of the Social Science, “Private Probation Costs, Compliance, and the Proportionality of Punishment: Evidence from Georgia and Missouri,” Beth M. Huebner and Sarah K.S. Shannon, 2022, p. 184-85, <https://irl.umsl.edu/cgi/viewcontent.cgi?article=1017&context=ccj-faculty>.

¹⁰ Human Rights Watch, “‘Set up to Fail’: The Impact of Offender-Funded Private Probation on the Poor,” February 2018, pp. 2, 20, 36, https://www.hrw.org/sites/default/files/report_pdf/usprobation0218_web.pdf.

¹¹ American Bar Association, “Privatization of Services in the Criminal Justice System,” June 2020, p. 13, https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-def-aba-privatization-report-final-june-2020.pdf.

¹² *Id.* at 8-14.

¹³ *Id.* at 4; National Consumer Law Center, et al., “Unfair or Deceptive Fees ANPR, R207011,” February 8, 2023, pp. 16-17, https://www.nclc.org/wp-content/uploads/2023/02/Unfair-or-Deceptive-Fees-ANPR-R207011_NCLC-et-al.pdf.

¹⁴ Brennan Center for Justice, “Criminal justice debt: a barrier to reentry,” Alicia Bannon, Mitali Nagrecha, Rebekah Diller, October 4, 2010, p. 1, <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.

¹⁵ Brave New Films. “To Prison for Poverty – Part One,” June 4, 2014, 4:28-5:02, https://www.youtube.com/watch?v=C_cIWv9yc3A; Human Rights Watch, “Profiting from Probation: America's ‘Offender-Funded’ Probation Industry,” February 5, 2014, pp. 34-35, 50, https://www.hrw.org/sites/default/files/reports/us0214_ForUpload_0.pdf; New Yorker, “Get Out of Jail, Inc.,” Sarah Stillman, June 16, 2014, <https://www.newyorker.com/magazine/2014/06/23/get-out-of-jail-inc>.

Those who cannot pay probation companies' excessive fees face serious consequences, such as the suspension of their drivers' licenses, civil judgments that damage credit scores, and ineligibility for certain public benefits.¹⁶ They can also face longer periods of disenfranchisement, as many jurisdictions strip voting rights from individuals on probation and those with outstanding criminal justice debt.¹⁷ Some are even arrested and face jail time.¹⁸ Although it is unconstitutional to jail someone for not paying a probation fee without first assessing their ability to pay, courts often do so.¹⁹ The American Bar Association found that "assessment of ability to pay is *rare* in situations involving private companies."²⁰ Some probation companies seek arrest warrants based on nothing more than a failure to pay fees.²¹

Even if they avert jail time, individuals are left trapped in a cycle of debt: upon failing to pay their probation fees, they are punished with an extension of their probation periods, which comes with additional probation fees that drive them deeper into debt.²² This debt is imposed on some of the poorest in society: "two of every three people on probation make less than \$20,000 per year, with nearly 40% of those making less than \$10,000 annually."²³ Many sacrifice paying for other essential expenses in order to scrape together probation payments.²⁴

¹⁶ Human Rights Watch and ACLU, "REVOKED: How Probation and Parole Feed Mass Incarceration in the United States," 2020, pp. 53, 70-73, 117,

https://www.hrw.org/sites/default/files/media_2020/07/us_supervision0720_web_1.pdf; Brennan Center for Justice, "Criminal justice debt: a barrier to reentry," Alicia Bannon, Mitali Nagrecha, Rebekah Diller, October 4, 2010, pp. 24, 27-28, <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.

¹⁷ Vanderbilt Law Review, "Wealth-Based Penal Disenfranchisement," Beth A. Colgan, pp. 77-80, <https://vanderbiltlawreview.org/lawreview/wp-content/uploads/sites/278/2019/02/Wealth-Based-Penal-Disenfranchisement.pdf>; Brennan Center for Justice, "Criminal justice debt: a barrier to reentry," Alicia Bannon, Mitali Nagrecha, Rebekah Diller, October 4, 2010, p. 29, <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.

¹⁸ American Bar Association, "Why Are We Still Sending People to Jail for Being Poor? It's Time to Truly Abolish Debtors' Prisons," Tim Curry, April 12, 2023, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-issues-in-criminal-justice/why-are-we-still-sending-people-to-jail-for-being-poor/.

¹⁹ *Id.*; Dear Colleague letters from Associate Attorney General Vanita Gupta and Assistant Attorney General of the Civil Rights Division Kristen Clarke, et al., April 20, 2023, p. 6-8, <https://www.justice.gov/opa/press-release/file/1580546/dl?inline>; Governing, "Addicted to Fines," Mike Maciag, August 19, 2019, <https://www.governing.com/archive/gov-addicted-to-fines.html>; Russell Sage Foundation Journal of the Social Science, "Private Probation Costs, Compliance, and the Proportionality of Punishment: Evidence from Georgia and Missouri," Beth M. Huebner and Sarah K.S. Shannon, 2022, p. 181, <https://irl.umsl.edu/cgi/viewcontent.cgi?article=1017&context=ccj-faculty>.

²⁰ American Bar Association, "Privatization of Services in the Criminal Justice System," June 2020, p. 25, https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-def-aba-privatization-report-final-june-2020.pdf (emphasis added).

²¹ *Meneil v. Cmty. Prob. Servs., LLC*, No. 1:18-CV-00033, 2021 WL 366776, pp. 30-33, (M.D. Tenn. Feb. 3, 2021), https://www.govinfo.gov/content/pkg/USCOURTS-tnmd-1_18-cv-00033/pdf/USCOURTS-tnmd-1_18-cv-00033-2.pdf.

²² Brennan Center for Justice, "Criminal justice debt: a barrier to reentry," Alicia Bannon, Mitali Nagrecha, Rebekah Diller, October 4, 2010, p. 25, <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.

²³ Fines and Fees Justice Center, "50 State Survey: Probation & Parole Fees," May 2022, p. 2, <https://finesandfeesjusticecenter.org/content/uploads/2022/05/Probation-and-Parole-Fees-Survey-Final-2022-.pdf>.

²⁴ National Public Radio, "As Court Fees Rise, The Poor Are Paying The Price," Joseph Shapiro, May 19, 2014, <https://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor>.

Their payments flow into an industry that is a financial black box. Total revenue of the private probation industry is unknown, though we know that revenue reached \$40 million in a single state with a large probation presence in the 2010s,²⁵ and probation and parole fees nationwide are estimated to total in the hundreds of millions of dollars each year.²⁶ Sometimes, probation companies are run by former law enforcement officers who leverage their connections with local officials to secure these lucrative probation contracts.²⁷

Probation companies employ various tactics to maximize their revenue. Some apply payments to the company's own fees before the court's fines so that the underlying fine is paid down more slowly; this lengthens the probation period, resulting in additional fee revenue.²⁸ Other profit-driven abuses include threatening jail time for those who cannot pay the company's fees, demanding fees for drug tests not ordered by the court, failing to inform probationers about community service alternatives, continuing to collect probation fees from individuals even after their terms of probation have expired, and directing individuals to borrow money in order to pay company fees.²⁹

Despite such abuses, jurisdictions exercise little oversight over probation companies' day-to-day operations.³⁰ Some jurisdictions even hand over governmental responsibilities that present a clear conflict of interest with the companies' profit motives. For example, some probation companies

²⁵ Atlanta Journal-Constitution, "Georgia leader in private probation — a \$40 million industry," Rhonda Cook, February 4, 2014, <https://www.ajc.com/news/state--regional-govt--politics/georgia-leader-private-probation-million-industry/cclEQ8YvKKwi8FSorKrHsJ/>.

²⁶ Fines & Fees Justice Center, "50 State Survey: Probation & Parole Fees," May 2022, p. 3, <https://finesandfeesjusticecenter.org/content/uploads/2022/05/Probation-and-Parole-Fees-Survey-Final-2022-.pdf>.

²⁷ Atlanta Journal Constitution, "Georgia leader in private probation — a \$40 million industry," Rhonda Cook, February 4, 2014, <https://www.ajc.com/news/state--regional-govt--politics/connections-matter-private-probation-industry/vJEnHSC8QX5hI3jsKFII2L/>; Associated Press, "The man behind Georgia's largest private probation company," Damon Cline, April 15, 2018, <https://apnews.com/general-news-a6d9695a353c406ab995619e5854f90c>.

²⁸ Russell Sage Foundation Journal of the Social Science, "Private Probation Costs, Compliance, and the Proportionality of Punishment: Evidence from Georgia and Missouri," Beth M. Huebner and Sarah K.S. Shannon, 2022, p. 192-93, <https://irl.umsl.edu/cgi/viewcontent.cgi?article=1017&context=ccj-faculty>.

²⁹ Law Office of the Southern Center for Human Rights, "Profiting from the Poor: A Report on Predatory Probation Companies in Georgia," July 2008, p. 6-7, https://www.schr.org/files/profit_from_poor.pdf; Human Rights Watch, "Tennessee has a problem with private probation companies. It hurts poor people.," Komala Ramachandra, February 19, 2019, <https://www.hrw.org/news/2019/02/19/tennessee-has-problem-private-probation-companies-it-hurts-poor-people>; Human Rights Watch, "Profiting from Probation: America's 'Offender-Funded' Probation Industry," February 5, 2014, pp. 46, 49-50, https://www.hrw.org/sites/default/files/reports/us0214_ForUpload_0.pdf; Brennan Center for Justice, "Criminal justice debt: a barrier to reentry," Alicia Bannon, Mitali Nagrecha, Rebekah Diller, October 4, 2010, p. 15-17, <https://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>; Fines and Fees Justice Center, "Luse v. Sentinel Offender Services," February 19, 2016, <https://finesandfeesjusticecenter.org/articles/luse-v-sentinel-offender-services/>; Atlanta Journal Constitution, "Probation company to pay Georgians forced to take drug tests," Rhonda Cook, August 22, 2017, <https://www.ajc.com/news/local/probation-company-pay-women-forced-take-drug-tests/IPDjNwi9H30JUE4rYUub1UL/>; Atlanta Journal-Constitution, "State audit finds problems with private probation system," Rhonda Cook, April 25, 2014, <https://www.ajc.com/news/state--regional/state-audit-finds-problems-with-private-probation-system/m39FPwhEC29N1T39qtPb4H/>.

³⁰ Russell Sage Foundation Journal of the Social Science, "Private Probation Costs, Compliance, and the Proportionality of Punishment: Evidence from Georgia and Missouri," Beth M. Huebner and Sarah K.S. Shannon, 2022, p. 182, <https://irl.umsl.edu/cgi/viewcontent.cgi?article=1017&context=ccj-faculty>.

make ability-to-pay determinations³¹ and allegedly even determine whether someone will remain subject to supervised, rather than unsupervised, probation.³² Probation companies also have enormous discretion to decide how to handle low-level “technical” violations of probation, such as a missed appointment, failed drug test, unpaid fee, or change of address without permission.³³ Some probation supervisors look the other way, while others pursue a revocation of probation and incarceration.³⁴ Meanwhile, some supervisors allegedly abuse their power by demanding that probationers perform sexual favors or personal work in exchange for averting a technical violation report.³⁵ And in some jurisdictions, defense attorneys have reported that private probation companies are paid for every violation they report to the court.³⁶

We are concerned about governments offloading the costs of the probation system onto individual “users” of the system, while handing authority to companies that commit abuses with little oversight. To help the public understand your company’s probation supervision practices, we request your responses to the following questions no later than August 8, 2024, with respect to your company and any of your subsidiaries that provide probation services:

1. Please list all jurisdictions with which you contract to provide probation services. For each jurisdiction, please indicate:
 - a. How many people were under your supervision at any time in the past 12 months, disaggregated by race?
 - b. With how many courts in the jurisdiction do you currently work?
 - c. Please list any fees your company charges, including the amount of the fee, for supervision and any other services (e.g. for drug testing or treatment, electronic monitoring, or other company-imposed conditions of supervision).
 - d. Do you have an exclusive contract for probation services in that jurisdiction?
 - e. Please share a copy of the contract(s) between your company and the jurisdiction.
 - f. What case management services, if any, do you offer?
 - g. What role does your company play in setting the terms of probation?
 - h. What role does your company play in deciding whether to extend probation or whether someone has violated the terms of their probation?
 - i. Do you report to courts all fees you charge?

³¹ Human Rights Watch, “Profiting from Probation: America’s ‘Offender-Funded’ Probation Industry,” February 5, 2014, pp. 5, 39, 44, 57-58, https://www.hrw.org/sites/default/files/reports/us0214_ForUpload_0.pdf.

³² McNeil v. Cmty. Prob. Servs., LLC, No. 1:18-CV-00033, 2021 WL 365844, at *3 (M.D. Tenn. Feb. 3, 2021).

³³ Human Rights Watch, “REVOKED: How Probation and Parole Feed Mass Incarceration in the United States,” 2020, pp. 15, 18, 61-62, 83, https://www.hrw.org/sites/default/files/media_2020/07/us_supervision0720_web_1.pdf; Human Rights Watch, “Profiting from Probation: America’s ‘Offender-Funded’ Probation Industry,” February 5, 2014, pp. 51-52, 56, https://www.hrw.org/sites/default/files/reports/us0214_ForUpload_0.pdf.

³⁴ *Id.*

³⁵ Tennessee Department of Commerce & Insurance, Private Probation Services Council, “Meeting Minutes,” May 5, 2023, p. 2 <https://www.tn.gov/content/dam/tn/commerce/documents/regboards/privateprob/meetings/2023/MayMinutes.pdf>.

³⁶ Russell Sage Foundation Journal of the Social Science, “Private Probation Costs, Compliance, and the Proportionality of Punishment: Evidence from Georgia and Missouri,” Beth M. Huebner and Sarah K.S. Shannon, 2022, p. 189-90, <https://irl.umsl.edu/cgi/viewcontent.cgi?article=1017&context=ccj-faculty>.

2. Please provide your company's revenue and profits for each of the last five years.
 - a. What percentage of revenue was from probation fees? Please list total annual revenues for each fee described in response to question 1(c) above.
 - b. What was the total compensation (including equity and bonuses) paid to your top three executives in each of the past five years?
3. How does your company typically distribute supervised individuals' payments between court-imposed financial obligations and company fees?
4. Is probation officer compensation tied in any way to collection of fees (through penalties, bonuses, or base earnings)?
5. Please provide a copy of any standard operating procedures and guidelines that your company provides to probation officer employees and describe the company's system for holding probation officers accountable to company guidelines.
6. What training, if any, do you provide employees on the constitutional prohibition against jailing someone due to an inability to make payments?
 - a. What is your company's protocol for responding to failures to make payments?
 - b. How does your company assess an individual's ability to pay company fees?
 - c. Are probation officers instructed to document an individual's partial payments?
7. What percentage of the individuals you supervise are on probation solely because they were not able to pay a court-imposed financial obligation at or immediately after sentencing?
 - a. What percentage are on non-reporting probation?
8. For each of the last five years, please provide the number of arrest warrants and/or probation revocations sought in which:
 - a. Failure to pay a company-imposed fee was one of the alleged violations.
 - b. Failure to pay a court-imposed fine was one of the alleged violations.
9. What is your company's process for receiving and responding to complaints from individuals on probation?
10. Please describe your company's protocol and all methods for collecting payment from people on probation.
11. Do you contract with, or sell debt to, any private collection agencies? If so, which ones?
12. Over the past year, how many times has your company sought the early termination of probation for a supervised individual?

If you are unable to answer a question above, please explain why and share any alternative information relevant to the question. Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



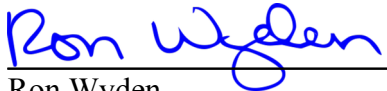
Tony Cárdenas
Member of Congress



Cory A. Booker
United States Senator



Sydney Kamlager-Dove
Member of Congress



Ron Wyden
United States Senator



David J. Trone
Member of Congress



Peter Welch
United States Senator



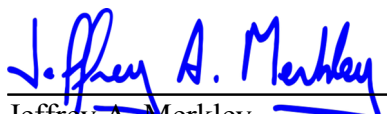
Rashida Tlaib
Member of Congress



Bernard Sanders
United States Senator



Delia C. Ramirez
Member of Congress



Jeffrey A. Merkley
United States Senator



Cori Bush
Member of Congress

Edward J. Markey

Edward J. Markey
United States Senator

Jasmine Crockett

Jasmine Crockett
Member of Congress

Alexandria Ocasio-Cortez

Alexandria Ocasio-Cortez
Member of Congress

Danny K. Davis

Danny K. Davis
Member of Congress

Ayanna S. Pressley

Ayanna Pressley
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