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# EXPLORING SUPERVISION FEES IN FOUR PROBATION JURISDICTIONS IN TEXAS

A Report by the Robina Institute of Criminal Law and Criminal Justice

**TEXAS**



**ROBINA INSTITUTE**  
OF CRIMINAL LAW AND CRIMINAL JUSTICE

# Exploring Supervision Fees in Four Probation Jurisdictions in Texas

## Summary Report

By

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### Acknowledgments

The Robina Institute of Criminal Law and Criminal Justice greatly appreciates the partnership and cooperation of the probation leaders in the 4 jurisdictions included in this report, as well as the participation of all of our interview participants. In order to retain confidentiality we will not list any names or locations. But to everyone who participated in our research, thank you.

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## Perspectives on Probation Revocation

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*"We like to threaten warrants all the time. Hey, we're going to have to—we're going to have to [revoke]—we will, we promise."*

- Probation Officer

*"They'll stop coming in if they don't have a payment. Sometimes they'll run, thinking they're going to go to jail for not having their payment."* - Probation Officer

*"I mean I understand that this isn't supposed to be easy because you know we all did something wrong and we're being punished for it. So that's the idea for probation—you know—to teach a lesson. But it's just... I mean sometimes it's unmanageable."* - Probationer

*"I do without sometimes. I pick and choose what I eat. When I've worked in fast food I'll take home what we didn't use. Get on the ramen noodle diet. Get a box of 12 for 2 dollars. . . . Don't buy shoes. Don't buy extra clothes. I need two hearing aids. I've been taking the money I have saved up for hearing aids to pay for this [probation]."* - Probationer

*"[My probation officer] was like, 'Well, who's going to keep your kids when you go to jail?'. . . . You know if I can't pay it, I can't pay it. So, it's too much sometimes. . . I was really upset about that because once you bring my kids into it, I'm going to worry about my kids more than me. And I have a 2-year old. My son is 12. He can stay with my parents. But my daughter is 2. You know she's growing active so I'm more worried about her. Like, who's going to take care of her?"* - Probationer

# Supervision Fees Research Project

## Introduction

In 2014, the University of Minnesota's Robina Institute of Criminal Law and Criminal Justice began a multi-state study that was tasked with exploring nationwide variations in the practices and policies of probation violations and revocations. A distinctive finding that grew out of the Robina Institute's work in two Texas counties was that probation supervision fees play a major role throughout the state. Probationers are required as one of 25 standard conditions to pay supervision fees, and—depending on the case—they may have to pay additional program fees, fines, and restitution. Texas probation departments depend on supervision fees for a large share of their operating budgets, and they are responsible for collecting those fees. Because payment of fees is a formal condition of probation, probationers may be sanctioned if they fall delinquent. Additionally, their probation terms may be extended to allow more time to pay, or early termination may be denied. In interviews, some probationers believed they could be revoked to jail or prison for failure to pay supervision fees. However, we heard from probation officers that probationers were not revoked solely for fees. The officers told us that nonpayment may be one reason probationers are revoked, but only when combined with other violations.

The Robina Institute was encouraged by other probation chiefs in Texas to add additional counties to our study. To understand the interaction between probation and criminal justice fees in greater depth, the Robina Institute conducted a mixed methods study with 4 probation jurisdictions in Texas. Quantitative data was analyzed to examine the average amount of fees ordered, the breakdown of the fees ordered, and the percent of probationers who were current and delinquent on their fees. The quantitative analysis also examined the outcomes for those who were delinquent on their fees. Qualitative interviews were conducted with probationers to understand how fees impacted them and their experience of probation, as well as how they handled paying their fees. Probation officers were also interviewed to examine how fees were utilized and how officers collected fees.

This report highlights some of the findings from qualitative interviews with over 50 probation officers and 46 probationers in 4 probation jurisdictions. A separate report highlights our quantitative findings; future Robina Institute publications will explore the quantitative and qualitative data in greater depth, as well as legal issues associated with the imposition and collection of supervision fees.

The first section of this report presents findings from the focus groups with the probation officers. The second section focuses on findings from the probationer focus groups.

## Background on Fees in Texas

Probationers in Texas may be conditioned to pay fees, fines, and restitution. All probationers are ordered to pay a supervision fee. In each jurisdiction, the supervision fee is set by a judge and must not be "less than \$25 and not more than \$60 per month."<sup>1</sup> In three jurisdictions the supervision was \$60 per month and in one jurisdiction it was \$50 per month. The monthly fee is due for the full length of a probationer's time on probation. Therefore, if someone is sentenced to three years of probation and their monthly supervision fee is \$60 a month, the total amount they will owe in *just* supervision fees \$2,160. This amount is independent of other court-related fees as well as fines and restitution. For probationers, their financial obligations are summed into one total, and each month a probationer is ordered to pay a portion of that total. There is no assessment to determine if probationers have the ability to pay what is ordered. Judges may waive or suspend supervision fees if it is shown that paying would cause severe financial stress to the probationer.<sup>2</sup>

The collection of supervision fees is a top priority for Texas probation departments because they depend on the money for operating costs. In the collection of monies, restitution to individuals is the second priority after supervision fees. Any fees that are considered one-time fees (such as the crime stoppers fee) must be collected in the first payment made to probation. Court fees are generally supposed to be paid on the day of court. But, if the court allows, they can be paid in monthly installments.<sup>3</sup> The following is the priority of the payments in the jurisdictions interviewed for this study:

1. Administration/Supervision fees
2. Restitution to individuals\*
3. All one-time fees
4. Court costs
5. Fines
6. Restitution to corporations
7. All other fees or cost

\*In one of the jurisdictions, officers noted that restitution came first before supervision fees.

## Qualitative Probation Officer Findings

Qualitative interviews and focus groups were conducted with probation officers. Over 50 probation officers participated from four different Texas jurisdictions. For confidentiality reasons, the jurisdictions will not be named, but the four jurisdictions were geographically spread throughout Texas, and the size of the departments was mixed with medium and small departments.


The qualitative data was gathered through focus groups with officers who were at the same level within the department. None of the focus groups were conducted with a mix of line probation officers and supervisors. In a few of the instances, individual interviews were conducted due to probation officers' schedule constraints.

All focus groups and interviews were digitally recorded and transcribed. The Robina Institute used open coding to analyze the transcripts. When analyzing the transcripts, researchers discovered that certain themes were prominent in the interviews. These themes focused on how fees were used, how officers collected fees, and what role fees played in sanctions and revocations. The next sections will focus on these findings.

### Fees are Vital for Operations

Collecting supervision fees is a major focus of probation in Texas. Line probation officers felt pressure from their managers, and managers let their officers know that obtaining fees was vital to the agency's survival. As one manager stated:

*"I will tell you it's something—that's pushed very hard. . . I mean it's how our department is funded. And we depend on collection of fees. So, monthly. . . our officers are under a lot of pressure to do whatever we can to collect fees. Period. End of story. And it's a very important. . . the collection of fees, it's a priority."*



*"Well, we're all dependent on probation fees in Texas. We just are. In our department, you know, we have multiple budgets but at least 40% or between 40% and 60% of our combined budgets comes in probation fees depending on what month we're looking at. So, we'd have to get rid of half of our employees, that's what happened, to be quite honest."*

Departments across the state were dependent on fees, as a large share of collected fees was used to fund the departments. Without the fees, according to at least one manager, staff cuts would be significant.

Probation officers understood the importance of collecting fees in order to maintain adequate funding for their positions.

*"All those fees pay for our criminal justice system locally. We think, like I said, it's a necessary evil to them, you know, and to us because it's collections. But it has to happen or we would not have a job."*

When officers were asked in the interviews what would happen if probationers did not have to pay fees, many of the officers' first responses were that "we would be out of job" or "we wouldn't have a probation department." There was an overwhelming sense that state legislators were not going to fund the additional costs if fees were eliminated. Reasons offered for why legislators were not going to pay the additional costs were that probationers committed a crime and they should be held accountable for paying a portion of probation as part of their consequence. One probation officer stated,

*"You don't get anything for free. So, I mean this is an opportunity. This was a choice you made. You know, you chose to do the crime, you chose to take probation, of course you're going to. . . I mean you can't go to the doctor's office and get an office visit without having any money, so you're not going to be in a courtroom where you're. . . where you've got a judge, DA, probation department—everybody in there—without having a fee assessed to it. There are consequences to every action, that's where the bond comes into play. You have an attorney that represents you, that's where the court-appointed attorney fee comes. We spend our time with you working with you to help you get [in] compliance with the [judge's order]. So, you know, your probation fees—I think it's all very just—I think it's fair."*

Other reason given for the state legislatures not paying for probation was simply due to not having the money given the other competing demands as one director described,

*"The political reality in Texas is this: \$340 million a biennium, and the political reality is the Texas Legislature is not going to take \$340 million and put it in the criminal justice system for people, for criminals that are already paying this. We can't fund Medicaid in the state. We have [these issues] constantly. We have issues with education and the school districts because the State of Texas helps fund the school districts. So, there are lots of other issues in the State of Texas on this budget."*



Overwhelmingly, probation officers interviewed did not want tax payers to “foot the bill” for probationers. One probation director asked rhetorically, “[Do] you want the taxpayers to pay one third of a billion dollars for [a] criminal?” Another officer believed that if taxpayers paid for probation then probationers would not be held accountable,

*“If there weren’t probation fees, then as a taxpayer, you know, it costs the taxpayer \$47 a day on average to incarcerate somebody. If you’re now asking the taxpayer to cover the \$60 in probation fees that it costs for us to supervise these defendants a day, then like, how is that making them be responsible for their effort and their actions? How is that holding them accountable for what they’ve done?”*

### Time Spent on Fees Varies

Because of departmental reliance on fees, officers must address payments at every office or home visit with the probationer. If probationers are delinquent on their fee payments, they problem-solve with the probationer on how to make the payments. Probation officers repeatedly reported that the collection of court and supervision fees was a key aspect of their duties. Officers seemed to vary in their estimates of the amount of time spent on collections. As one officer said,

*“Probably 50% or more of the time that they spend with [probationers] are toward collecting fees. Because ultimately [probationers] have to pay these fees in order to successfully complete this probation. And not focusing on that is, in a sense, setting them up for failure and unsuccessful completion if we don’t concentrate on that.”*

Some officers said they discussed fees with probationers “every time they come” or during “every phone call.”

Other probation officers said the amount of time varied between individuals. If probationers were behind, they spent more time going over fees. For clients who were up to date, they spent less time.

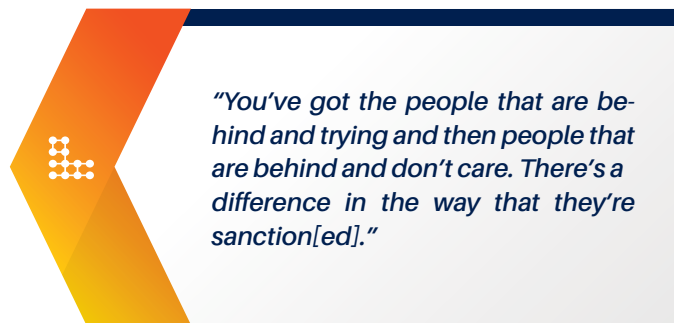
*“If they’re current and if they are making payments as scheduled, minimal amount of time. . .if they are delinquent or failed to make a payment as they agreed to then there’s time spent with them and it could vary from 5 minutes to 30 minutes.”*

A couple of probation officers said they do not spend a lot of time discussing fees with probationers because they thought this was a secondary function of probation.

*“Fees [are] only secondary to the problem. Because our emphasis is on the problem. What is the problem? What’s going on in the probationer’s life? What can we do to improve it?”*

### Sanctions/Revocations for Fees

Probation officers reported that, when probationers fail to pay fees, they can incur a consequence. The consequence could include a sanction (such as mandatory attendance at a class on financial responsibility or increased community service), extension of the probation term, or in rare cases revocation. For some officers, the consequence imposed depended on whether the probationer was capable of paying but refused, or was unable to pay because of non-existent or limited income:



One probation officer said they would use a jail sanction for those probationers who are making no effort to pay:

*“You do a five-day sanction: Okay, you’re going to do five days in jail and it’s not just because of the money. It’s because you’re not working or trying and you’re not paying.”*

Other sanctions for nonpayment were to “make probation more difficult” by increasing the “frequency they report.”

*“[Have them report] twice a month or weekly or report once a week if they haven’t demonstrated they’re willing to pay on their own. So, you find the ones that can’t, that aren’t good with their money, and you make them come in more frequently.”*

Another common sanction was to require that probationers attend a “collections class.” One probation officer described the class and how it is intended to operate:

*“They got to go to class, they have to attend a program . . .we are doing a collections class at night for delinquent fees and we’re switching it to a day time program next month called Budget and Financial Class. And they’ll attend that for 6 weeks and then take a break and then take it again in 6 weeks or they can come to increase reporting. . .every Tuesday morning at 8:00am and stay here for a 30-minute class.”*

In other cases, consequences for not paying fees included extension of the probation term or revocation, though many probation officers thought it was rare for a probationer to

be revoked just for non-payment of fees. Several officers reported that probationers would not be revoked solely for not paying fees. Some said that, in all their many years with the department, they had never seen anyone revoked just for fees.

*"In the entire time I had a case or supervised officers that had caseloads, I've never seen a case get revoked to jail or prison solely because of money, never. We just don't do that."*

In one jurisdiction, officers may file a revocation for restitution but not for supervision or other fees.

*"We don't revoke people for fees in our county. So, I mean the judges don't require us to file motions to revoke or things like that on just probation fees. Restitution, yes. But any other fee we don't."*

Non-compliance on paying fees may be one of the reasons listed on a revocation but several probation officers stated that this is only one of the reasons and not the sole reason.

*"In the three years I've been a probation officer, have never seen anybody revoked over money. There's always other allegations, there's always other issues going on. Money is not just the primary issue there."*

One officer said,

*"For [a] revocation it's going to be like they're not completing their programs. . . they have a combination of things they're not doing and some of them just give up and they just stop reporting."*

Despite the majority view that failure to pay rarely resulted in revocations, a couple of probation officers indicated that they do sometimes file for revocation based solely on non-payment, especially when a probationer's term is nearing completion and non-payment is seen as volitional. One officer asserted:

*"The only way that we're going to file on you for money alone is that you have everything else done, you've done everything else, your case is expiring in a month or two, and you haven't made an effort to pay."*

Similarly, another probation officer mentioned the perceived need to file for revocation based on non-payment as a form of "accountability" for the probationer:

*"There's going to have to be some accountability. It's their responsibility. . . if you've got somebody that's on probation for a felony probation for five years then, you know, five years rolls around and they're, you know, \$6,000 delinquent. . . something's got to happen there. There's got to be some accountability. And a motion will probably [be] filed."*

The same officer went on to say:

*"I mean there have been people that have been revoked because of money, but that's after all these scenarios have been put in place where you know, 'we did this for you, we did this for you, we did this for you,' and finally, you, if the person's not going to make the effort, then the court, it's possible they can say, 'We're going to revoke you.'"*

## Using Revocation as a Threat to Secure Payment

Officers who said they would never revoke probationers on their caseload said they did use the threat of revocation as a tactic to get probationers on their caseloads to pay.

*"We like to threaten warrants all the time. Hey, we're going to have to, we're going to have to [revoke], we will, we promise."*

This exchange happened between two probation officers in a focus group,

Probation officer 1: "You agree to pay supervision fees, and if you feel like you can't abide by this contract, unfortunately, the consequence of not following this certain contract is not—you're not going to go to. . . collections—you're going to go to jail because you chose not to pay. You know, you made the decision not to follow the contract with the judge. . . we're going to go and we're going to make sure you go to jail because you didn't pay us."

Probation officer 2: "You're using that as a threat, though, right? Because we don't send people to jail for not paying."

Probation officer 1: "I use that more as like hopefully a deterrent, saying like 'hey, you know, make your, honor your contract. You know, you have a responsibility. . . You like to go see your kids. You know, you don't want the court to you know make you make a decision for you and have you go to jail. You want your choice to not be out in the free world taken away from you and go to, and be in jail or be in prison or state jail.' You know we don't like, it's like that's the last thing I want is for someone to go to jail because they chose not to make a payment."



## Waiving Fees

Probation officers rarely requested that courts waive supervision and other court fees because, according to one probation officer, “the courts order the fees and we collect them.” Another probation officer indicated that some fees were considered waivable, while others were not:

*“We don’t waive them typically; we don’t waive the court costs, we don’t waive the attorney fees, we don’t waive restitution, we don’t waive fines. Typically, what we’ll waive are the administrative fees, which is [the] probation [supervision] fees and UA fees.”*

The same probation officer went on to say that officers do not typically waive fees because, “We’re paying ourselves”—meaning that the money collected is used to pay salaries and basic departmental operations.

Instead of waiving fees, officers may seek to reduce the monthly amount ordered. An officer said they often ask reduction in the monthly payment to something more manageable for the probationer.

*“Our county’s pretty good at modifying some of the fees, per se, if we fill out that budget plan and we see he cannot pay \$60 a month but he could pay \$30 a month and he’s pretty much keeping to that \$30 a month and we can justify that, then the county’s pretty good at making some reductions and helping the defendants out with that as well.”*

Some reported instances where fees were waived, but these were typically extreme cases where the probationer was severely ill or had a debilitating disability. One probation officer shared this story:

*“Sometimes you get a little mercy from the court. I had one gentlemen. . . one day he was healthy, he had everything current, was doing great, and the next thing he was down on the floor in a coma and was in a coma for a long time. . . . They transferred him to a nursing home. . . and so I mean after several months were. . . getting information from the doctor and everything submitted and had him early released. And he was granted [it]. So sometimes you get a little mercy.”*

A different probation officer shared another extreme case resulting in a waiver.

*“I had one [probationer] that was in a really bad car accident and basically he couldn’t work. He couldn’t walk. . . . We used to have that indigent review [team]. And we would. . . have to write up a report, bring it up*

*before the review board. . . then they look over everything and then if they felt that this person would be a good candidate. . . we would submit the paperwork to the court. And then court would decide which way it was going to go. But that guy ended up because he couldn’t pay and. . . it was coming close to the term of his probation to expire, so they went ahead and just waived everything that he owed.”*

Although fees are rarely waived, they are occasionally reduced:

*“The court will every so often reduce their standard probation fee to about 40 or 20 dollars. And that’s the most that the court will give leniency to as far as their fees.”*

Even so, officers reported that it was very difficult to have fees waived or reduced in ordinary cases:

*“It all depends on the circumstances of the defendant. If they’re having a mental or disability problem, then the judge will take that into account. But generally, our folks are healthy. And so if they’re healthy, they’re going to one way or another they’re going to be made to pay or they will be incarcerated.”*

## Absconding Due to Fees

Probation officers understand the difficulty that some probationers face when paying fees. Again, officers understood there was a difference between those who could not pay due limited income or unemployment and those who were not making any effort. However, for some probationers the sheer amount of fees may be too daunting.

Several probation officers reported that as a result of high fees, some probationers gave up. According to the officers, when faced with high payments, some probationers would decide that imprisonment would be easier than paying fees. A probation officer shared an example:

*“I had one lady. . . a new [probationer]. . . when we were going over her fees she told me, she said, ‘I can’t pay them, I’m not going to pay’. . . she just hung around for 6 months then [went] to jail.”*


A probation officer reported:

*“There’s others that if they are so overwhelmed they’ll automatically tell you ‘I can’t do this probation, I just want to do my time[in prison].’ And you know then they request a violation report file and we submit it to the court, they go to court, and they’re sentenced to do their time.”*

Some probationers respond to fee obligations by absconding:

*"They stop reporting and then finally when we get a hold of them and say, 'You didn't report for 2 months, well why? What was the problem here?' And they say 'I didn't have any money to make a payment.'"*

One officer reported:




*"They'll stop coming in if they don't have a payment. Sometimes they'll run, thinking they're going to go to jail for not having their payment."*

An officer in a different jurisdiction said they have seen probationers who are afraid to come in because they do not have their payment and fear they will be revoked. This officer explained what they saw from probationers,

*"Honestly. . . some that don't have a payment or the money to make a payment that month, it has and would affect them because they're afraid to come in. The reason why I'm saying is like now, I'm at the intake point of it and I've gotten calls telling me 'oh, I'm not going to be able to make it to my appointment today.' I'm like okay, why? 'Well I don't have the \$60 that they had told me to pay today to see you.' And I have to explain to them, no, even if you don't have that money, you need to come in, don't be afraid to come in. Once you know who your officer is, you can then start going to your officer and explaining to them. But whatever you have, say \$10, \$20, whatever you have, go ahead and come in with that and make that payment. So if they don't have the money, I believe it does affect."*

Some probation officers expressed frustration about probationers who would choose prison over paying fees. When the earlier-quoted probation officer shared the story of the probationer who gave up and went to jail because of fees, another officer responded that the behavior "was stupid." A few also expressed confusion over why a probationer would stop reporting if he or she did not have money to pay fees. After all, the officers expressed, [omitted name of county's] probation orientation informs probationers that fee payment and reporting are two separate obligations.



*"That is explained to them more than once in orientation. In our orientation, [they] know that reporting and paying are two separate conditions of probation. You have got to report with or without your payment, we're not guaranteeing you won't have to pay a consequence for that, but you must report. . . . There's a lot of times that [probationers] don't report because they don't have payments and they just think, 'Well, if I can't pay, I don't have to report.' And that's not the case."*

Other officers did not think they stopped reporting because of the fees rather it was because of an inherent behavioral issue in the population of probationers.

*"I think the probation population has, they're impulsive anyway. So they might throw in the towel early. They've done [that] at their jobs. They've done that with a lot of their responsibilities. It's a great deal of impulsivity to just say "I can't do it," when faced with a difficult challenge. So I don't necessarily know if it's about fees, but clients will be impulsive and give up just overall. It's a pattern of behavior with that population."*

Another officer said,

*"I personally never seen anybody just abscond because of fees. It's usually something else, drug use, they don't want to come in and test positive."*

One officer said this reason for absconding was really more a convenient excuse,

*"I think it happens occasionally. I don't think it happens as much as some people let on. I also think it's a convenient excuse. . . . I think it's a convenient excuse. . . . And I don't know that that excuse is really valid but I do know that since people don't get revoked for supervision fees, it is not going to change successful completions on probation."*

Probation officers generally agreed that probationers would be not be revoked for nonpayment of fees, so it was not sensible for them to abscond for this reason. However, as described above, some officers stated that they threaten revocation as a way to encourage probationers to pay, even if the sanction is rarely used in practice. These two points seem to be directly in conflict; on the one hand officers threaten probationers with revocation, and on the other they think the probationers' fear is just an excuse.

## Probation Officer Conclusions

Probation officers acknowledged the challenges that fees posed for some probationers but, at the same time, many viewed the payment of fees as part of the consequence for committing a criminal offense. Many officers did not seem opposed to probationers paying fees even if it causes some probationers additional burdens. Several officers viewed the supervision fee as “just another bill.” Their concerns focused instead on the amount of time officers had to spend trying to collect the fees. Officers often mentioned feeling like “glorified bill collectors.” At times, some felt that collections took away from the time that they could spend addressing other rehabilitative issues. They said that rehabilitative issues were still addressed, but the time on these issues was balanced against time spent trying to get probationers to pay. A small handful of officers questioned the wisdom of supervision fees but, since many understood that is how their departments were funded, they did not want the fee to go away. Rather, they would like someone else to be in charge of collection. It was suggested that a specific officer or clerical staff could be dedicated solely to collecting supervision fees. Then officers would be free to spend 100 percent of their time on casework.

### Probationer Findings

This section highlights findings from focus groups with probationers. In two of the four jurisdictions where probation officer focus groups were conducted, focus groups with probationers were also conducted. The findings of this report, however, only highlight one jurisdiction. Similar to the Robina Institute’s work with probation officers, most data on probationers were collected in focus groups. However, there were times when interviews were conducted with individual probationers due to schedule conflicts.

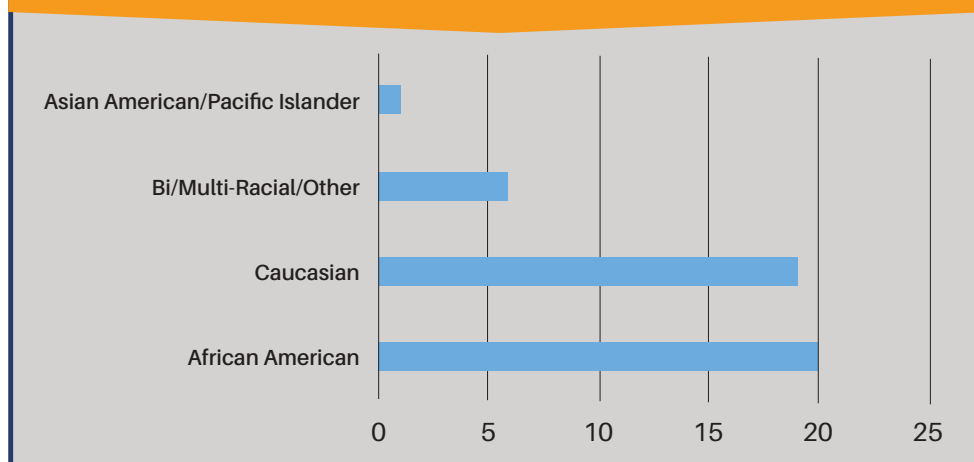
In the focus group, probationers were asked questions on the amount they owed in fees, how they got money to pay fees, and how fees affected their experience of probation and their overall life. Probationers, as described below, felt supervision fees imposed significant burdens and stress due to the threat of incarceration that attended late payment.

### Probationer Focus Group Demographics

Forty-six probationers participated in the interviews and focus groups; 28 were males while 18 were females. The racial demographics of the participants were mainly split between African American (20; 44%) and Caucasian (19; 41%). Six individuals identified as bi/multi-racial or other and only 1 individual self-identified as Asian American/Pacific Islander. Six participants identified their ethnicity as Hispanic or Latino. The majority of the probationers interviewed were born in the United States whereas 7 were not.

The mean age of the probationers interviewed was 34; ages ranged from 19 to 72. Only 1 probationer reported having a graduate degree and 1 reported having a bachelor’s degree. Sixteen (35%) participants reported having a high school diploma/GED whereas an additional 15 (33%) reported having some college. Eight (17%) had an associate’s or technical degree; 5 individuals had no high school diploma or GED.

### Ethnic or Racial Background of Probationers

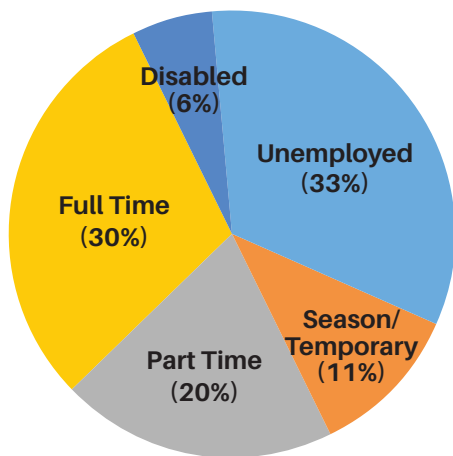


Income levels were split, but 23 probationers reported no income or annual incomes under \$10,000.

Income Levels	
No Income	6 (13%)
Under \$10,000	17 (37%)
\$10,001 to \$19,999	8 (17%)
\$20,000 to \$29,999	6 (13%)
\$30,000 to \$39,999	4 (9%)
\$40,000 to \$49,999	2 (4%)
\$50,000 or above	2 (4%)

The pie chart below shows the employment status of the probationers.

### Probationer Employment Status



Fourteen probationers reported they had full-time employment but only 3 of those with full time employment report their income as \$40,000 or higher. Ten of the probationers who had full time employment reported their income below \$39,000.

Overall the vast majority of probationers had at least a high school education, yet most of them seemingly lived in poverty.

## Qualitative Probationer Findings


### Varied Amount of Fees

The amount of fee probationers owed varied significantly from person to person. Many probationers understood that their fees paid for many different things, from supervision to court costs to UAs. However, due to the way the fees were collected, the probationers also understood their fees as one lump sum that they needed to pay. Participants were asked the total amount of their payments to probation as well as the monthly payment required. Total payment amounts ranged from approximately \$1,000 to \$30,000, which included fines and restitution in some of those amounts. (The person who owed \$30,000 had already been on probation for 8 years.) We did not ask probationers to give a breakdown of their overall criminal justice debts, to separate out fees from restitution and fines. What mattered to them was the total debt burden, and the impact of the total on their daily lives. Probationers' monthly payments ranged from \$25 a month, to one person who was ordered to pay \$1,400 a month. Most monthly payments were around \$150 to \$250 a month. For many, this amount was too much for them to pay every month and they reported they often only paid what they could.

*"I had to pay over. . . \$150 maybe a month. . . and I was making it. Although sometime[s] you know I had a struggle you know trying to make that amount so I would just pay in whatever I could."*

Paying what one could, however, did not ease the stress of making payments. In many instances probationers discussed that partial payments were more stressful because it put them increasingly in arrears and did not make a dent in their overall amount owed.

Some simply could not pay anything because they did not have adequate income. *"I'm supposed to pay \$150 a month, but I haven't paid them anything because I don't have a job."*



*"If you don't pay for a whole month that adds up. That adds up. That's why I'm like \$1,400 and something dollar [behind] now. Because it adds up and they expect you to pay that. But how you going to pay it?"*



One probationer felt the only way he could pay monthly fees was if he won the lottery. His fines and fees were \$8,000, and he asked,

*"Who is going to get \$8,000 dollars to pay off probation unless we hit the lottery?"*

Echoing comments of the probation officers, one probationer who was also behind on payments was counting on his income tax refund to help him get caught up.

*"I just don't have the money. And my plan is, you know, when I get my income tax then that's what it's going to go [toward]."*

### **Income to Pay Fees**

Participants were asked where they got their income to pay their fees. A few of the participants were on disability and used money from that to pay fees.

*"I got hurt in Iraq so most of my disability and social security. . .pays for that."*

Others had part-time or temp jobs but many in these positions mentioned having limited or inconsistent hours.

*"I just started working and it's part-time. There be no hours. I think I had like 15 hours a week."*

*"Right now, I'm working through a temp service. So, whenever they have work, I work. When they don't I really try to find odd jobs to do without getting in trouble."*

A few probationers mentioned that family members or close friends helped them pay their supervision fees when they could.

*"In the beginning when I couldn't do them [pay fees] myself, my dad paid them."*

Another probationer was at the end of her probation term and still had fees. Her family was able to help her pay the remaining balance.

*"Well at the end. . .of this year was my last actual day I had to have the rest of my remaining balance in and I was worried. . .and I didn't know how I was going to get it. . . . So I talked to a family member and they contacted. . .you know my other family members and they all got together and they paid it for me."*

A couple of probationers also mentioned that their family members let them do odd jobs and would then give them money so they could pay their fees. One probationer said,

*"Family members help me. Let me clean their garage out or clean whatever to pay for fees."*

Another moved in with a sister and did odd jobs to obtain money to pay fees.

*"When I first got on probation I was right in a house. . . I had to move in with my sister. To [get] pay per se I keep the chores done around the house and repairs and stuff of that nature."*

Some participants who had full time employment still found it difficult to pay their fees as many still received low wages or had other family or financial responsibilities.

*"Well, it was hard because I was [a] single parent for the first part of the probation. It was very hard for me and my son. And trying to provide with just what little income I had and then trying to make sure everything was taken care of."*

Another probationer said,


*"I'm managing and I don't go without anything. But I mean I'm working like 130 hours in [a] pay period. Like constantly working overtime just to make sure I got enough money so I can do everything and pay."*

### **Impact of Fees**

Several probationers mentioned they do indeed "go without" necessities of life, because paying court and probation fees was the priority to avoid incarceration.

*"In my mindset is, 'If you don't pay your fees you're going to jail.' That's my daily mindset. [Probation fees] come first even before rent."*

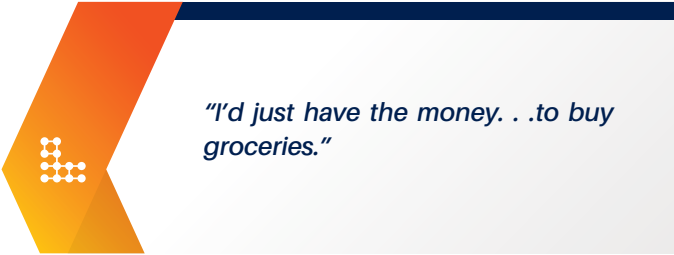
A probationer explained they did without basic subsistence items, such as food and clothing in order to make payments.



*"I do without sometimes. I pick and choose what I eat. When I've worked in fast food I'll take home what we didn't use. Get on the ramen noodle diet. Get a box of 12 for 2 dollars. . . . Don't buy shoes. Don't buy extra cloths. I need two hearing aids. I've been taking the money I have saved up for hearing aids to pay for this [probation]."*



When one person was asked what would happen if they had no fees the response was:



*"I'd just have the money. . .to buy groceries."*

Others had to eliminate other things that were not considered essential.

*Well you know I just cut back on certain things as far as my communications [phone], internet, you know downsizing my telephone, maintenances on my car. Things that I could be using \$80 dollars you know for something else.*

But even taking these measures into account, some were still not able to come up with enough money to pay their fees.

*"I'm \$1,000 dollars in the hole. But I mean [I] sacrifice. In fact, you know, I gave up a lot of stuff, my car, to try and you know make the payments and even it's still. . .that's still a struggle."*

### **Family Doing Without because of Fees**

Doing without not only affected individual probationers but extended to their families. Several mentioned that paying probation fees "took away from their family."

*"The [payment of fees] takes money away from my home life, my children. Like [it's] Christmas right now instead of getting another \$50 dollar gift for my children, I had to pay \$50 today towards my probation."*

Because of family responsibilities, fees were even more difficult to pay.

*"I mean a lot of times it comes to me where you know I got a certain amount of money and. . .I got to buy groceries for my kids and my household and I got to keep the electricity on but at the same time I don't have, there ain't no extra money because everything I don't pay bills with has to come here [probation]."*

Some probationers could not allow their families to go without just to pay their supervision and court fees.

*"You still have to [take] care of your family and your home, you know like we just can't be out homeless paying probation. Like that's like inhumane to me. Like that just like not right. It's not right at all."*

One probationer said,

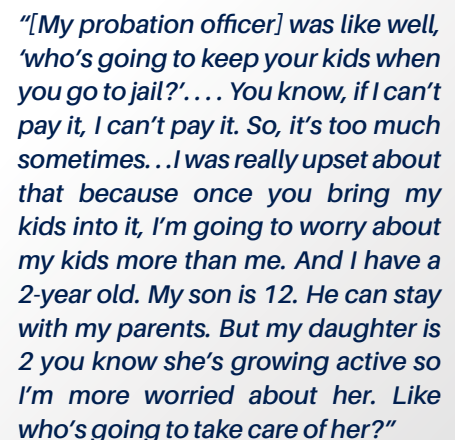
*"It's like they expect you to. . .pay your probation but what about our families? . . .my kids are not gonna go without lights, they're not gonna go without. I mean be thankful y'all are getting something. I'm trying, you know."*

This person believed that probation officers did not take the fact they tried to pay fees into consideration.

### **Sanctions for Failure to Pay**

Probationers understood that if they did not pay their fees they would be sanctioned. According to the interviewees, sanctions could include extra classes, additional community service, and extension of probation, jail time, or ultimately revocation.

The threat of revocation for non-payment of fees was perceived as genuine by many probationers. This was a source of stress for many probationers, especially those who had children. One probationer who was a mother was told by her probation officer that she would be revoked if she did not get caught up on fees. The officer pressured the mother about what would happen to her kids while she was in jail.



*"[My probation officer] was like well, 'who's going to keep your kids when you go to jail?'. . . You know, if I can't pay it, I can't pay it. So, it's too much sometimes. . .I was really upset about that because once you bring my kids into it, I'm going to worry about my kids more than me. And I have a 2-year old. My son is 12. He can stay with my parents. But my daughter is 2 you know she's growing active so I'm more worried about her. Like who's going to take care of her?"*

Another probationer who was also a parent was told that weekend jail service would be the consequence for failure to pay fines and fees:

*"They're talking about putting me in jail on the weekends. So I got to summons myself into jail on the weekends. . .summons myself on a Friday night and get off Sunday evening. You know, which once again I have three kids, I can't take my kids to jail with me."*

In addition to being concerned about their children, probationers were also concerned about the amount of time they would have to spend in jail.

*"I've heard some cases that some people have sat in jail for three, four months before they got that revocation hearing. So I mean my kids, two brothers, get spilt up in the foster care [system] because they don't have somebody. . . I mean that's a very big worry right there. So hearing about revocation. . . its just that's two to 20. And 20 years is still a whole life. I mean two years still too long to be away from them."*

Probationers received constant reminders through mail and phone messages when they were behind on payments.

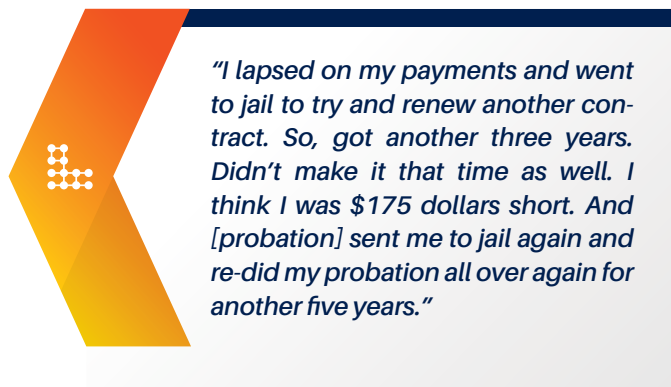
*"I've been getting a green card in the mail from the county saying that they're going to issue a warrant."*

*"They got an automated system that calls me every week. Every week it dials my number at about 7:00 pm at night and tells me I need to get a hold of my probation officer. That, you know, basically your freedom's in jeopardy if you don't get a hold of your probation officer immediately. You know you're behind on your payments."*

Some interview participants reported that they had been revoked solely for fees. They also mentioned that when they were released again after spending a period in jail or prison, their probation terms were extended, and more fees were added. Several probationers mentioned that it felt like a never-ending cycle.

*"They revoked me...I plead for another chance on probation. And then they gave me three more years on top of that five years. Because you know each year is around \$1,000. . .so in grand total I'd say \$14,000 that I really owe."*

One probationer was about \$175 dollars short when probation was revoked.



Many probationers received a sanction for non-payment rather than revocation. The sanction could include reporting weekly instead monthly. Small payments were often due at each weekly visit, but it was still difficult to pay.

*"Instead of monthly visits you know they increase you to weekly visits. And that gets in the way of trying to make the little money that you make."*

Sanctions could also include going to a collections class which may interfere with a probationer's work schedule.

*"My only issue is kind of like when they put in a lot classes they want you to take off work. But then they take off from work and you miss money then they're complaining about you're not paying enough on your fees. So, I'm like how do you expect someone to kind of catch with you everything if you keep. . . you get a sanction for instance you have to take off work for that. . .and it's like well you're taking more money away from me not being at work."*

Another probationer was going to have their probation extended to allow more time to pay off the financial obligations.

*"I've only got a year of probation but she's [probation officer] going to try to get me six more so I can pay it off."*

## Probationer Beliefs About Supervision Fees

There was a belief among some of the probationers that probation officers and the overall probation department only cared about collecting money. Many felt that probation officers were not considering their families' needs and other obligations.

*"This year when I got my taxes they were telling me to just you know pay my whole probation off and I'm like I have 2 kids, my last car broke down. . .kids still have doctors' appointments. . .I can't just not be without transportation you know. . .I mean all they really is concerned about is money."*


Another probationer had a similar viewpoint,

*If you don't have the money it's almost impossible to pay what they want because you know they really don't care about your income or what you're paying. You know they don't care if you have rent, car payment, none of that. . .they just want what they want. . .*

While some probationers stated that probation negatively impacted them and their families, some also stated that probation officers were just doing their job.

*Me being on probation it's affected my house hold. . .your probation officer. . .they just doing their job. So, I mean. . .what goes on in your household or your life, you know, it just irrelevant to what's going on here.*

Other probationers felt paying fees made them accountable for their actions. They committed a crime and one of the consequences was to pay probation and court supervision fees.



*In my situation, I take full responsibility of why I'm on probation. I know I committed a crime. . .there's a consequence for everything you do and so it's part of I messed up, in order to stay out of prison I have to pay each month.*


Another probationer mentioned the fees are the price for staying out of prison and that someone had to pay for probation.

*"I mean okay looking [at] it rationally, the judge has got to get paid for his time there and the attorneys got to get paid for their time there, the state's got to pay the building there. Somebody's got to pay for a probation officer being there. Somebody's got to pay for overhead and stuff for the building. And you, when you're given the option of either going to prison for a couple years it's a weights and balance system, I guess. You know go to prison for a couple years [or] be on probation, pay money. . .unfortunately we do have to pay but I mean it's got to be there."*

While some probationers agreed that they committed a crime and had to be accountable, they still believed probation officers were too focused on the money aspect.

*"Yes, we have to be held. . .responsible for our consequences. . .have us work [community service] to help pay off these [fees]. You know help [us], it seems like you know they all about the money. . .its money, money."*

For others, the fees were just too burdensome,



*"I mean I understand that this isn't supposed to be easy because you know we all did something wrong and we're being punished for it so that's the idea for probation you know to teach a lesson. But it's just I mean sometimes it's unmanageable."*

## View that Fees are not Fair

While some probationers believed that fees were an appropriate part of their consequences for having committed a crime, several others thought the court and probation fees were unfair.

*"To be honest, I really don't see what I'm paying for. I didn't hurt nobody. I just got caught with some weed. So, I got to pay all this money for just having weed."*

Others felt it was unfair because the amount owed was so high.

*"My fee all together is \$8,000 and some dollars. . . I feel that it shouldn't be that high. I mean. . . for what we did or whatever. I think that probation, us coming here, is enough payment."*

Whereas others felt they should not have to pay because they were considered low income or poor.

*"If I can't afford a lawyer that means I can't afford one. So, you want the fees and then you [want] the lawyer fees back. I mean it's just because I can't afford one that you give me a court-appointed lawyer. I don't feel that's something I should have to pay for under any circumstances."*

Finally, some probationers feel that fees made it a lot harder to succeed on probation,

*"[Paying fees] almost puts you under almost like. . . they're trying to set you up."*

*"I think it makes it a whole lot harder [for] you to try to complete everything."*

## Probationer Conclusions

Probationers expressed that it was difficult to pay fees due to insufficient income, unemployment because of their criminal records, or because of their family and household obligations. Some understood that it was a part of their consequence for their criminal offense and for being on probation, but nonetheless felt fees made it a challenge to successfully complete probation.

Many probationers believed they would be revoked for not paying fees, even though the probation officers we interviewed stated that revocations for nonpayment rarely or never happened. This difference in perceptions is explicable, given that at least some probation officers reported that it was necessary to threaten probationers with revocation in order to motivate them to make payments. According to our interview subjects, the threat alone was an important reality in probationers' lives.

## Report Conclusions

This report is a qualitative review that examines how probation fees operate in various departments in Texas. By conducting this research, the Robina Institute seeks to understand the impact of fees on both probation officers and probationers. This comprehensive study, which is the first of its kind, examines how departments collect and utilize fees as well as the impact of fees on probationers.

Prior to these results, there was a concern that probationers were being revoked solely for failure to pay their supervision fees. Based on interviews conducted for this research, it appears that this happens rarely or not at all. When revocation does occur, it tends to be because the probationer was willfully not paying, or there was non-compliance with other probation conditions.

One probation violation that may result in revocation is absconding – a situation that occurs when the probationer fails to maintain contact with the probation officer and the probationer’s whereabouts are unknown. Some probation officers expressed concern that probationers abscond when they are unable to pay their supervision fees. It is difficult to verify this, however, without asking probationers why they absconded. But the threat of revocation appears to have been legitimate. Some officers in this sample said they used revocation as a tactic to coerce payment and some probationers in this sample reported having been threatened with revocation for nonpayment.

Probation fees are important for the departments and so officers reported that they spend a great deal of time collecting the fees. The officers understood the importance of collecting the fees but sometimes became frustrated with this aspect of their duties.

Some probationers mentioned that fees were part of their consequence or price for staying out of prison but many of them also found this to be the most difficult part of probation. Due to their income or other family obligations, fees caused additional hardship.

The Robina Institute’s purpose was to describe how fees were used and again the impact of fees on probation departments and probationers. Our next step is to examine these issues quantitatively. We will be examining in a larger sample the amount and type of fees probationers are assessed, delinquency rates, and the consequences of delinquency.



## END NOTES

<sup>1</sup> Tex. Code Crim. Proc. Ann. art. 42.12 § 19(a) (West 2016).

<sup>2</sup> See 1.

<sup>3</sup> Tex. Loc. Gov't Code Ann. § 133.102 (West 2016).

## About the Probation Revocation Project

The Robina Institute's Probation Revocation Project partners with city, county, and state jurisdictions to conduct research of community supervision and probation revocation practices in the United States. Outcomes of the first phase of this research include the publication of legal profiles in *Profiles in Probation Revocation: Examining the Legal Framework in 21 States* (2014), and publication of jurisdiction alpha reports that include a close examination of probation practices, policies and procedures, data collection, as well as interviews with probation officers, probationers, judges, prosecutors, and public defenders to provide a comprehensive picture of how these specific jurisdictions manage probation and probation revocation practices.

Additionally, the Probation Revocation Project partners with select jurisdictions to assist with improving practices such as providing an analysis of fees and fines and assisting with developing sanctions and incentive grids for probation management.



### About the Robina Institute of Criminal Law and Criminal Justice

The Robina Institute brings legal education, theory, policy and practice together to achieve transformative change in punishment policies and practices. The Institute is focused nationally on sentencing guidelines, probation revocations, and parole release and revocations, and locally on the Minnesota criminal justice system.

The Robina Institute was established in 2011 at the University of Minnesota Law School thanks to a generous gift from the Robina Foundation. Created by James H. Binger ('41), the Robina Foundation provides funding to major institutions that generate transformative ideas and promising approaches to addressing critical social issues.

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