

## The Lesser of Evils?

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Directly in front of the apartment where I used to live, there was a large metal plate indelicately placed on the moderately busy road. Apparently, it was there to cover a hole in the pavement that was big enough to be dangerous, but not of sufficient size to motivate the city to fix it permanently. The plate was too heavy to be moved by cars as they drove over it, but once an hour or so, a large eighteen-wheeled rig would lumber across it. The truck's massive bulk would rattle that plate with a BANG-BANG-BANG-BANG-BANG. Every time that would happen, jolts of fright and adrenaline would flood my body. I had no fear of trucks, or of metal plates; that muffled concussion of asphalt and steel reminded me of the fist of my probation officer pounding on my door.

For a long time, I lived in perpetual terror of that fist. Even though his visits were infrequent at best—he made a home visit fewer than a dozen times in five years—I did not go a single day in those five years without wondering “Is today the day he will come visit? Is today the day he will drag me away in handcuffs?”

When I was first put on probation, I considered it an enormously better option than prison. I believed it would be a modest annoyance. Indeed, the restrictions placed on me were largely irrelevant. The biggest concern was that I was forbidden to use the Internet, and I quickly found permissible ways to circumvent that particular prohibition. As the years wore on, however, I often wondered if I had made the wrong choice. Empirically, the impact on my day-to-day life was minimal. Psychologically, however, the impact was devastating, and it was arguably worse than a short spell in the slammer.

Probation departments are not a place to which any state government has an incentive to devote an overabundance of funds. Probation officers are underpaid, overworked, and disrespected. My P.O. once stated he had over thirty active cases he had to manage; I expect this is typical in many probation departments. With caseloads like that, there is no realistic way a probation officer can keep tabs on everyone.

Lacking any real ability to supervise me, my probation officer was forced to resort to intimidation and threats. At one point, my P.O. confiscated my desktop computer and had it forensically searched. It took nearly a month, and ultimately they found absolutely nothing incriminating. Nevertheless, as he gave it back to me, my P.O. declared, “the IT guys didn't find anything, but they're still convinced you're up to something!” I actually *wasn't* up to anything. But rather

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\* In 2010, the author pleaded guilty to a low-level felony. He had committed a non-violent offense that carried with it a sentence of 6–12 months incarceration. In lieu of that, he accepted a sentence of five years' probation.

than giving me an “attaboy” for following the rules, I instead had to wonder what further indignities I would be subjected to. Another time, he arrived with a camera—and a well-armed man in Kevlar body armor—and photographed every inch of my home. He did not explain the purpose of the photographs.

Recently, I decided to take my eight-month-old son for a walk around the block. My wife wasn’t home, but her car was still at the house. I loaded our baby into a stroller and headed off into the sunshine. But as I rounded the block, an ominous thought occurred to me. Both of our cars were parked in the driveway. If my P.O. came a-knocking, he would see two cars and assume we were home. When we didn’t answer the door, he might conclude we were hiding from him. Behavior like that could easily result in my arrest. He didn’t come, of course, but that fear lingered in my mind during the entire stroll. Because of thoughts like that, I spent five years feeling like I was perpetually under threat from unlikely, but plausible, scenarios that could begin with utterly reasonable behavior, and end with me in jail.

This concern was not entirely unwarranted. On two separate occasions I was accused of violating the terms of my probation, even though they had no evidence other than the dubious results of polygraphs. Each time, the accusations were based not on the polygraph itself, but on the false claim that I had confessed during the interview to violations of my probation. I had made no such confessions, and I was not allowed to see the polygraph results. Thanks to one of these supposed confessions I spent several days in jail, first on suicide watch (despite the fact that I wasn’t suicidal), where I wasn’t allowed underwear because it might be employed for self-harm, and later in the “high profile tank,” where I was the only person in the overcrowded day room who hadn’t been on the nightly news for my crimes. Then I was simply returned to probation, as if nothing had happened.

I certainly wasn’t the Justice Department’s picture of the ideal probationer. At the beginning of my probation, I lived in a different county than the one that controlled my case, and worked in a third county. Since I was technically not supposed to leave the county without permission, this caused all sorts of headaches. Worse, my divorce decree mandated that I have my parenting time in another state, since my ex-wife had moved away. This meant constant paperwork, and there was nothing my P.O. disliked more than paperwork. I always noticed that home visits, polygraphs, and other mandatory unpleasantness seemed to happen immediately after my P.O. had been forced to fill out more paperwork than usual on my account. Nevertheless, during those five years, I never committed a single act that would have been considered problematic by any reasonable person. Despite that, I was afraid until my final day of probation. For years, I had a recurring fantasy of being put into a medically induced coma until my probation was over.

Two days ago, my probation ended. It was more than a month before its scheduled termination, and I have very little experience with things in the criminal justice system taking less time than expected. I assumed I would have to wait until the last possible second for the appropriate paperwork to wend its way through the

bureaucracy. Instead, it occurred more than two weeks before the paperwork was supposed to be started. Yet, even in handing me this gift, the Justice Department had to give me one last moment of terror.

I was in the probation department for a monthly check-in. Sitting in the waiting room, I saw my P.O. pad up to me brandishing paperwork, and he began our exchange with the words “Now don’t flip out...” The only way he could have more successfully induced a panic attack would have been if he’d also been wielding a Taser. Upon seeing the document, I understood his warning. Stamped across the top were the foreboding words: “TERMINATING COMMUNITY CONTROL UNSUCCESSFUL.” For about three seconds, I believed my probation was being revoked and that I was being arrested again. Weirdly, it was actually the paperwork that confirmed I was being released from probation.

Apparently, if you have been accused of a violation of probation at any time during your tenure, your probation is classified as “unsuccessful.” As a result, my P.O. explained, “I’ve never had a probationer classified as ‘successful.’” Such a perfect ending. After five years of stress and chaos, some kind of ceremony might have been nice. Instead, every probationer is handed a failing report card and pushed out the door.

In the last two days, I have slowly acclimated to my new status as a free man. I used to imagine I would throw a huge party when my probation ended. Instead, I have tried to be as low-key as possible. My wife offered to take me out to dinner anywhere I wanted; I chose Chipotle. The next day, I packed my son into the car and drove to my parents’ house to help my mother install shelves in her laundry room. It was mundane, perhaps, but also a small expression of my new-found freedom: it was the first time in five years I had visited my parents without having to get a permission slip from my P.O. to leave the county.

Despite the fact that the stress has probably taken years off my lifespan, probation provided a safety net of sorts. The rules of probation, while arbitrary and punitive, forced me to be extremely aware of the law, and made me extra-careful in my fidelity to it. Whatever else you might want to say about my punishment, the fact remains that I did something that was both legally and morally wrong, and I need to make sure I never commit such an act again. My newly won freedom represents not only a relief, but also a new risk. There is danger that if I leap headlong into my new liberty, I might push it too far and end up doing something I will later regret. So I have tried to walk instead of run. I decided to continue attending the therapy group that had been mandated during my probation. Last night, I got home from Chipotle and opened the browser on my phone for the first time in years. I used it to check my email, and then closed it again. In two days, I have spent a grand total of about twenty minutes on Internet browsers.

Several years ago, I moved away from my old apartment and that steel plate. I now live in a house that is set far back from the road. I never hear the banging of trucks. Occasionally, I do see the red and blue lights of a police car as it whizzes by. The lights sweep across my living room wall for a few moments before vanishing as quickly as they appeared. Perhaps someday I won't immediately assume those lights are there for me.