

THE TRUTH ABOUT COMMERCIAL BAIL BONDING IN AMERICA

Introduction

The Eighth Amendment to the United States Constitution provides that bail may not be “excessive.” For much of our history, judges routinely required the posting of money by the accused in order to secure release pending trial, even though he was considered innocent until proven guilty.



Over the last fifty years the courts, state legislatures and the Congress have concluded that our colonial-era practice of exclusively using money to sort out who is released from jail pending trial and who must remain in jail is unnecessary and discriminatory.¹ It is unsafe because it is ineffective at distinguishing between dangerous and non-dangerous defendants. As a result, laws throughout the land were changed, providing judges with a long list of alternatives that take into account the circumstances and characteristics of each arrestee, rather than the amount of money in their pocket.² These options range from “release on recognizance” (one’s word to obey certain conditions) for the lowest risk defendants to “detention with no possibility of release” before trial for the highest risk defendants, with a wide range of individually tailored alternatives in between.³

¹National Conference on Bail and Criminal Justice Proceedings. Department of Justice, 1964/1965.

²Bail Reform Act, 1966. At least 40 states amended their bail statutes modeled after the Bail Reform Act of 1966 - listing all the factors that the court is to take into consideration in making the pretrial release decision. By December 1984, 26 states had changed their bail laws to add assessment of danger as a consideration in the pretrial release decision. (United States Code, Title 18, Sections 3141-3150; referred to as the Bail Reform Act of 1984). By 1997, 34 states explicitly required that danger be considered. As of 2008, nearly all state bail laws refer to danger as a consideration. For discussion, see John S. Goldkamp, “Danger and Detention: A Second Generation of Bail Reform,” *Journal of Criminal Law*, Volume 76/1, Spring 1985; John Clark and D. Alan Henry, “The Pretrial Release Decision: Judges Need Better Guidance in Deciding What To Do With Arrestees Pending Trial,” *Judicature*, Volume 81, Number 2, September/October 1997; and www.pretrial.org for a compilation of state bail laws.

³United States v. Salerno, 481 U.S. 739 (1987).

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In many jurisdictions, this vision of a modern pretrial release system has been realized with the help of pretrial services programs. These publicly-funded programs interview and investigate defendants who are awaiting a bail hearing, assess the defendant's risks of danger to the community and failing to appear in court, and supervise and report back to the court on any conditions the court sets to minimize those risks. Pretrial services programs help assure that defendants appear for court proceedings without wasting costly jail beds on those who can safely be released – many of whom will not be sentenced to jail if convicted.

For the most part, **these programs use research-based tools to assess defendants' flight risks as well as their likelihood of danger to the community.** By impartially presenting this information to judges, pretrial services programs play a vital part in helping select the most appropriate pretrial release or detention conditions.

This reform of our bail setting practices has had a persistent opponent – the commercial bail bonding industry. From the earliest days of our republic, commercial bail bonding companies have been doing business with defendants who can afford their services by collecting a non-refundable (even when the defendant appears as required) fee of 10 percent or more of the bail amount. The reason for the bail bond industry's opposition to bail reform is apparent – every defendant released with non-financial conditions is one less paying customer.

Today, despite the many achievements in bringing about a more rational pretrial justice system – or, more likely, because of these achievements – the bail bond industry has renewed its efforts to discredit pretrial services programs. This Advocacy Brief was created to present the truth in light of recent media coverage and

legislative attempts by this private industry to influence the nation's criminal justice system.

Campaign to Increase Profits from Crime

Over the past 50 years, local and state governments across the nation have been relying upon the men and women of their pretrial services programs to maintain community safety, administer justice and help manage jail populations in a cost effective and responsible manner. Yet, in several states, funding for pretrial services programs has become increasingly threatened by the bail bonding industry. While states struggle with declining revenues and steep budget gaps, the bail bonding industry, motivated by private profit and not community safety, is using the economic crisis to attempt to cut pretrial services programs.



The bail bonding industry wants policy makers and the public to believe that the reforms over the past 50 years never occurred. Why is this? These reforms, and the pretrial services programs that have resulted from them, have hit the bail bondsmen in their wallets. They want you to think that bondsmen should have the right to do business with those who can pay and that government-funded pretrial programs should deal only with the indigent – those who cannot pay. Why the separation of classes of defendants? Because bondsmen want to continue to collect defendants' **non-refundable** fees.

The bail bonding industry will tell you that because bondsmen commit to the court, on paper, that they will pay the full amount of the bond should the defendant

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fail to appear, this is a fair deal for all. But in counties across the country, this is a contract not always honored or enforced.⁴ With little risk of having to pay the court, bondsmen want to find as many clients with **high bond amounts** as they can, to **generate the highest profit**.

And if a defendant who is out on release having paid a bondsman is arrested before trial? Bondsmen are off the hook. These are their most attractive cases: defendants with high bond amounts (resulting in a higher fee) who are at higher risk of committing another crime before trial. Bondsmen target high-fee cases, leaving less risky, low-bond defendants to sit in jail. This results in the

There are no surveys to support any reported use of evidence-based practices by bondsmen. But nearly all pretrial services programs report using objective risk criteria to assess if someone can be safely released into the community under supervision.

release of individuals who are potentially dangerous to you and your family because they can pay the bond.

The current economic crisis has brought the already irrational reliance on commercial bail bonding to a new and dangerous level. As defendants and their family members are finding it more difficult to pay the bondsman's fees, bondsmen, like many other businessmen, are seeing fewer paying customers, which cuts deeply into their profit margins. This has led to an increased amount of competition among bondsmen for cases. A typical response of any business to competition is to put their product "on sale." This is precisely what bonding companies do; only their product is unrestricted freedom for potentially dangerous individuals. There have been numerous accounts of bail bonding companies undercutting each other, offering discounted

bonds, and payment plans,⁵ a practice that Baltimore State's Attorney Patricia C. Jessamy calls a "mockery" of the justice system. "Somebody gets a big bail, \$500,000, and gets out for one percent," says Jessamy. "If that doesn't defeat the purpose, I don't know what does."⁶

As with any business, the commercial bail bonding industry looks for ways to protect its profits. In some localities, bondsmen are now asking judges to require clients both pay their fee **and** be un-

⁴ For example, the Capital Bail Bonding Corporation had run up over \$100 million in unpaid bond forfeitures in New Jersey plus millions more in five other states before New Jersey authorities intervened and revoked the company's license. "Bail firm denied license in N.J.," by Dan Kelly, Reading Eagle, January 12, 2004. In Los Angeles, the District Attorneys Office estimated in 2004 that bail bonding companies owed the county \$30 million in unpaid forfeitures in just the previous three years, and estimated the statewide figure to be between \$100 million and \$150 million. "Probes target bail bond firms: Officials say laxity lets hundreds flee, costs counties dearly," by Wendy Thermos and Anna Gorman, Los Angeles Times, July 27, 2004. Citing the difficulties and expense involved in trying to collect on forfeited bonds from bail bonding companies, officials in Erie County, Pennsylvania simply gave up in 2006. Prior to that year, the county was averaging \$34,460 a year in forfeitures; last year only \$250 was forfeited. "Bail bond system in Erie County seen as broken: Forfeitures sought rarely," by Ed Palattella, Erie Times-News electronic edition, May 31, 2009. See also: "Panel delivers harsh critique of the bail system," by Allison Klein, Baltimore Sun, October 28, 2003; "Bail bondsmen consider a minimum," by Demorris Lee, Durham News & Observer, June 5, 2002; and "County sued over new rules to reduce bail forfeitures," by Elliot Grossman, Allentown Morning Call, April 17, 2002.

⁵ "Paying a Price For Dishonest Bondsmen: Cost-cutting tactics put dangerous defendants on streets," Connecticut Law Tribune, May 25, 2009; "Get Out of Jail Almost Free: Competition Pushes Down the Price of Bail," Alabama Press Register, November 9, 2008; "Even Bail Bondsmen Say Business Hurting," Athens Banner-Herald, November 16, 2008.

⁶ "In Maryland, Many Get Discount on Bail: Cut-Rate Bonds Set Dangerous People Free, Critics Say," Baltimore Sun, February 20, 2008.

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der the supervision of publicly funded pretrial services programs. A recent survey of pretrial programs that provide supervision showed that almost half are now responsible for defendants who have paid a commercial bail bondsmen.⁷ This shifts the expense of tracking the defendant from the bondsmen, who ostensibly is being paid a fee to do so, to you the taxpayer.

This business model has no place in our criminal justice system. Most of western civilization, including England, Canada, Australia and others, have banished this model as unsafe and corrupt.⁸ In these countries, it is a **crime** to write bonds for profit. In fact, throughout the entire world, only the United States and the Philippines allow this practice to remain. Even within the United States, four states (Illinois, Kentucky, Oregon and Wisconsin) have abolished this practice altogether.

A Strategy of Attacks on Pretrial Funding and Operation to Increase Profits

Some states, such as Florida and Texas, at the insistence of the bonding industry, have passed legislation designed to displace pretrial services programs by imposing harsh administrative burdens upon them – **reporting standards which are not required of commercial bail bonding companies.**

These legislative attacks are not the result of home grown or individualized efforts. They are part of a national strategy promulgated by the American Legislative Exchange Council (ALEC), a conservative special interest group that works with state lawmakers. Their work

is organized and well funded, and their conclusions are self-serving and misleading. In the past, ALEC has supported efforts such as the defeat of the Equal Rights Amendment and the support of tobacco advertising.⁹

The Florida law, passed in 2008 with well-funded lobbying by the affluent commercial bail bonding industry, requires pretrial services programs to create reports on a weekly

basis detailing information on each defendant they process. The misleadingly titled “Citizens’ Right to Know Act” was passed under the premise that pretrial services programs needed greater transparency and accountability to the public by way of weekly reporting and tracking of results. This legislation was not introduced as the result of a notorious case or public complaint. Who then would want to divert public pretrial services employees from doing the job taxpayers are paying them to do? The author of the model legislation: ALEC.

The “Citizens’ Right to Know Act” is another example of ALEC’s strategy of using positive sounding legislation to prevent government agencies from doing the work the public expects. Instead, this act burdens them with needless and labor intensive bureaucratic requirements. Jeff Kilpatrick, president of the Association of Pretrial Professionals of Florida, agrees that pretrial results should be tracked. In fact, the 29 Florida pretrial services programs were **already tracking their results before the law passed**, and because of Florida



⁷ Extrapolated from the Survey of Pretrial Programs, 2009. Pretrial Justice Institute, Washington, DC.

⁸ Commercial Bail Bonding: A Comparison of Common Law Alternatives, FE. Devine. New York: Praeger, 1991. American Bar Association Standards for Criminal Justice, Third Edition, standard 10-1.5, footnote 19 and related commentary, 2002.

⁹ Corporate America’s Trojan Horse in the States: The Untold Story Behind the American Legislative Exchange Council. Defenders of Wildlife & NDRC, 2002.

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sunshine laws, the data have long been available to the public. At the time of the bill's passing, not a single request for this information had been made.

The "Citizens' Right to Know Act" wastes county resources in Florida by requiring programs to produce the new and redundant reports instead of helping the courts and supervising defendants. Ironically, after passage, the policy analysis and research arm of the **Florida legislature** noted: "some of the reporting requirements add limited value or are ambiguous."¹⁰ Kilpatrick explained: "The people who are calling [for the reports] are nearly all bail bondsmen, looking for ways to characterize the data against pretrial services."

These results could have been predicted based upon the results of similar legislation in Texas. The state's legislature passed a version of ALEC's "Citizens' Right to Know Act" in 1995. The Texas bill's passage followed an extensive marketing campaign by ALEC, partnering with bail bondsmen's associations, insurance companies who underwrite much of the bonding industry, and other groups. Taking out two full-page advertisements in the Houston Chronicle, ALEC used a fear-mongering approach that painted the pretrial services agency in Harris County, Texas, as a threat to community safety that puts dangerous people on the loose. Despite the fact that it is the bondsmen themselves who profit from the release of those who have the highest bonds, their campaign to increase their profits succeeded. Even after the law passed, ALEC continued to send letters to Harris County judges, urging them to eliminate pretrial services agencies altogether. Fortunately for the residents of Harris County, this has not happened.

Not Everyone Can Be Bullied

With Texas and Florida under their belt, the commercial bonding industry, with ALEC's help, has taken this pre-packaged legislation to other targets in hopes of increasing its profits at the expense of public safety, fairness and local jail costs. Fortunately, the industry has not seen the results it wants.

In Virginia, pretrial services agencies already produce monthly reports and quarterly narratives on their results. But that didn't stop a Virginia lawmaker from proposing the same bill in 2009 that passed in Florida



and Texas. Less than a month after its introduction however, the bill quickly died, due in part to a fiscal impact statement prepared by the state's Department of Planning and Budget. It estimated that for the Commonwealth of Virginia, the "Citizens' Right to Know Act" would "... necessitate the equivalent of one full-time equivalent (FTE) staff person for each of the 30 programs."¹¹ It would have also required a "significant re-write" of the state's management information system. The overall cost of implementing the bill? \$1.5 million annually.

The bill's text was lifted right from the ALEC's proposed legislation, even though some of the measures did not apply to Virginia. "It would have required programs to **report on things we don't even do in this state,**" says Glen Peterson, director of Chesterfield/Colonial Heights Community Corrections Services.

The bill was not the first attempt to attack Virginia pretrial services, and it is unlikely to be the last. In

¹⁰ "Pretrial Release Programs Vary Across the State; New Reporting Requirements Pose Challenges," Office of Program Policy Analysis and Government Accountability Report No. 08-75, December 2008, p. 6.

¹¹ "2009 Fiscal Impact Statement," Department of Planning and Budget. Commonwealth of Virginia, 2009.

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November 2008, a Virginia bail bondsmen's association suggested cutting funding to pretrial services programs as a way to save money in this economic climate.

"Thankfully, in Virginia, our lawmakers understand that pretrial services programs are an alternative to incarceration – and that means they cost less in the long run," says Ann Harris, legislative committee co-chair of the Virginia Community Criminal Justice Association.

In May 2009, North Carolina became another target for proponents of the "Citizens' Right to Know Act." Fortunately, due to the efforts of local pretrial services program leaders, judges and elected county officials, as well as support from the Pretrial Justice Institute, the National Association of Pretrial Services Agencies and leaders from some of the best pretrial programs across the country, North Carolina's legislators were educated about the bonding industry's attempt to undermine pretrial services and the bill was dropped.

The "Citizens' Right to Know Act" is not the only legislative effort that has been pushed by opponents of pretrial services. The commercial bail bonding industry had made several attempts to increase its market share anywhere they can. In Oregon, one of the four states without bondsmen, pressure is being put on the legislature by lobbyists for the bail bonding industry to re-establish bonding for profit. In Ohio, the state association for bail bondsmen pushed the 2008 state legislature to eliminate a bail option that allows defendants to pay a **refundable** deposit of 10 percent of the value of the bond directly to the court. This option has been in place for more than 40 years. It provides no profits to the commercial bail bonding industry.

Led by a lobbyist and former Ohio Senate president, the bondsmen's association managed to secure a judiciary committee hearing on the issue. But the measure was strongly opposed by the Ohio Judicial Conference, and no bill was introduced.

"Eliminating the 10 percent option would have led to increased jail crowding, increased spending on costly jail beds and greatly increased profits for bail bondsmen," says Judge James G. Carr, chief judge of the U.S. District Court for the Northern District of Ohio, who testified against the measure. "It would have served the selfish interests of a small group, with no gain to the public or its interests. It's a simple attempt to protect profits. Every 10 percent deposit to the court is lost income to bail bondsmen."

"Proof" of What Works

Throughout these attacks, the commercial bail bonding industry frequently points to data that they claim supports the notion that commercial bail bonding is superior to the alternatives put in place by state legislatures and the Congress.¹² **This cannot be supported by the data.**¹³ There are four important limitations to the data to which they point.

First, the data collected is restricted to analyzing a small sample of *felony* case filings, not *misdemeanors*. A report by the National Association of Criminal Defense Lawyers estimates there are around 11 million misdemeanor cases each



¹² Letter from William B. Carmichael, President of the American Bail Coalition, May 11, 2007.

¹³ Pretrial Release of Felony Defendants in State Court: State Court Processing Statistics, 1990-2004. Bureau of Justice Statistics, Department of Justice. Washington, DC, 2007.

The Broward County Experience

Even at the county level, the industry is fiercely fighting for its business, perhaps most markedly in Broward County, Florida. In the summer of 2008, the Broward County Commission, with the support of the local justice officials, expanded the Sheriff's pretrial services program, recognizing that the current system was ineffective and costly. Just six months later, in January 2009, the county commission passed an ordinance that severely restricts this very same county program and calls for an audit aimed at identifying ways to cut the program further.

Had the program failed? Did the expansion of services endanger the community? Quite the opposite. At the Commission's hearings there was wide recognition of the program's success in reducing crowding in jails and saving the county millions of dollars in jail costs without an increase in crime. The ordinance passed despite outcry from the county sheriff's office, public defender's office and state attorney's office, groups that rarely see eye to eye on many issues.



What was the key to the bondsmen's success? Their very own lobbyist. The county bondsmen's association hired the lobbyist who also represents the county's commissioners at the Florida statehouse – the same commissioners who did an about-face on the issue of pretrial justice for no reasons associated with the community's interests or concerns. Instead they acted at the request of one special interest group – the bondsmen. Unfortunately, we've seen how the interests of private industry can conflict with the interests of the broader community. As South Florida Sun-Sentinel columnist Michael Mayo wrote after sitting through the commissions' vote: "I didn't get the sense this was about good public policy. This smacked of special-interest politics all the way."¹⁴

"Why would the county commissioners pass an ordinance that nobody wanted but the bondsmen?" says Broward County's elected public defender Howard Finkelstein. "Follow the money. Simply put, it was pay-to-play." The commercial bail bonding industry in Broward County, having succeeded in this effort, continues to mount new attacks to this day.

year.¹⁵ The data the bondsmen refer to represent less than 60,000 felony case filings in the nation's 75 most populous counties – counties that contain only 37% of the nation's population.¹⁶ So, it is important to understand the **limited scope of the data** to which the commercial bail bonding industry points.

Second, the data collected counts anyone on money bond and being supervised by a pretrial services program as a "commercial surety" case. This means that one cannot separate out the effect of **supervision by a pretrial services program** in these cases.

Third, the analysis done on the data does not take into account many important factors that *research has proven* contribute to whether the defendant fails to appear for court or was rearrested: his or her employment status, family ties, drug or alcohol addiction; whether the county itself had a pretrial services program; whether the county's pretrial services program only does interviews or also provides supervision services.¹⁷

Finally, there is also no distinction made in this aggregated data on the failure to appear rates between those recommended for release and then released and those

¹⁴ Michael Mayo, "Will Boost to Local Bail Bonding Industry Cost Us All?," South Florida Sun-Sentinel, January 29, 2009.

¹⁵ Minor Crimes, Major Waste: The Terrible Toll of America's Broken Misdemeanor Courts, by Robert C. Boruchowitz, Malia N. Brink, and Maureen Dimino. National Association of Criminal Defense Lawyers, Washington, DC.

¹⁶ Felony Defendants in Large Urban Counties, 2004. Bureau of Justice Statistics, Washington, DC, 2008.

¹⁷ There are forty years of research studies on this issue. For example, Why Defendants Fail to Appear: An Exploratory Review, Conference Notebook, Annual Conference of the National Association of Pretrial Services Agencies, M. Chaudhari, 1986; Alternatives to Incarceration Phase I: Pretrial Evaluation, Judicial Education Center, Hartford, Connecticut, 1993; Assessing risk among pretrial defendants in Virginia: The Virginia pretrial risk assessment, M. VanNostrand, 2003, Richmond, VA: Virginia Department of Criminal Justice Services.

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recommended for pretrial detention but released by the court **despite this recommendation**. These rates vary dramatically. For example, in New York City in 2007, the failure to appear rate was **double** for those released by the court, despite a “no recommendation for release on recognizance” made by the pretrial services program.

Let us examine the numbers the commercial bail bonding industry points to as “proof” of what works.¹⁸ The

National data show that nearly 85% of defendants who were detained pretrial were given a financial bond release by the court but could not afford it. The taxpayer pays to keep these people in jail - not because they are at risk of flight or dangerous, but because they cannot pay.

data do show a 4% lower failure-to-appear rate for those defendants that the bondsmen chose to do business with, leaving the rest in jail at public expense. There are other things of note in this report, which the commercial bail bonding industry does not highlight when it is lobbying. These very same data show **lower rearrest rates for those supervised by pretrial services programs** and identical appearance rates for commercial surety (nonrefundable) and deposit (refundable) bond to the court.¹⁹

In 2008, the Department of Justice agency that administers this data collection series issued a grant to have the methodology reviewed and revised. A major proposed improvement was the collection of the additional defendant and county information needed to allow for the very data analysis we all want to see.

It's Not Over Yet

Earlier this year, as the President's stimulus package was being debated on Capitol Hill and in the news across the country, the bail bonding industry found a new angle to attack pretrial services. Through letters to the editor and on Internet blogs, the bail bonding industry attacked the stimulus package as being a “crime stimulus” bill. The claim was that taxpayer money could be used to “bail criminals out of jail for free,” putting

dangerous people into your community. They claim that you, the taxpayer, are getting the raw end of a deal if you allow pretrial services to continue to serve our communities and our courts. Let us examine the issue more closely.

The program they claim was going to “stimulate crime” has been a part of the

Department of Justice, in some form or another, for decades. For more than ten years, this criminal justice grant program to counties and states has made funding available to support pretrial services programs.

Who Pays?

The commercial bail bonding industry often points out that under their system, “criminals” pay to get out of jail, while pretrial services programs cost the taxpayers. Let's look at the facts.

Estimates show that American taxpayers currently spend over **\$25 million per day** supporting our broken pretrial justice system. National data show that two-thirds of the jail population in this country is comprised of individuals awaiting trial, well over 500,000 people. In 5 out of 6 cases, these are individuals who

¹⁸Pretrial Release of Felony Defendants in State Court: State Court Processing Statistics, 1990-2004. Bureau of Justice Statistics, Department of Justice. Washington, DC, 2007. Page 10.

¹⁹Ibid.

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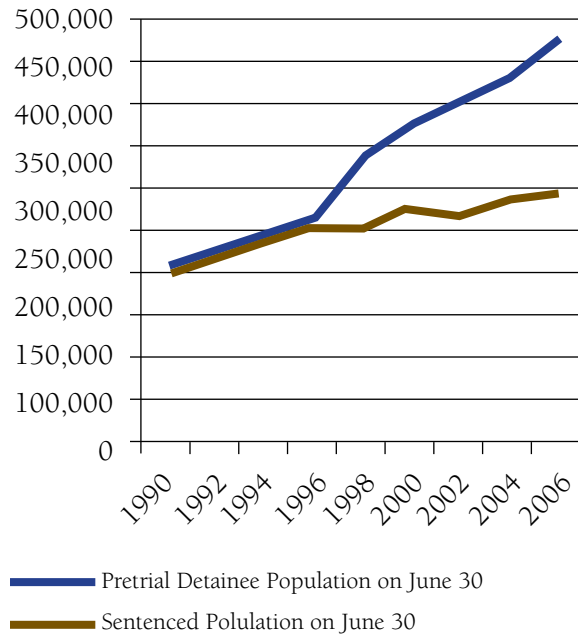
can't pay their bonds as set by the court or have bonds that simply do not give bondsmen the amount of profit they want.²⁰ So, at an average length of stay in many communities of 55 days, at \$60 per defendant per day, you pay to keep them in jail at a cost over \$25 million a day. This is **over \$9 billion per year**. Pretrial services programs cost, on average, \$8 per day per defendant, a cost of less than \$1.2 billion per year.

Pretrial programs identify dangerous defendants who should be held pending trial without worrying about losing profits as a result. Reliance on research-based tools that sort out who should be released and who should stay in jail is safer and more cost-effective. In this economy, can we not put that money to better use?

But what about the claims made by the bail bonding industry that bondsmen “go after” those who fail to appear, in contrast to pretrial services programs? Isn't the money paid to bondsmen in fees supposed to cover the costs of their fugitive recovery activity? On televi-

The Justice Policy Institute says eight out of 10 people in jail earned less than \$2,000 a month before they were locked up.²¹ Yet in felony cases, over two-thirds of defendants have financial conditions required for release.²²

sion and in movies, and more recently in some “reality” shows, we see bounty hunters running family businesses that apprehend fugitives and “bring them to justice.”



Pretrial Release of Felony Defendants in State Courts, SCPS 1990-2004. January 2008 revision, US Department of Justice.

Yet these very same bounty hunters have serious complaints regarding the current system. They are opposed to efforts by the Professional Bail Agents of the United States and the “Bail Bond Fairness Act” they lobbied to have introduced for consideration by the US

Congress.²³ Another misleadingly titled act, it would alleviate bondsmen of all financial liability for any pretrial misconduct, including failure to appear in court. If this were passed, it would eliminate the business of bounty hunters, whom bondsmen have to hire for re-

²⁰ Ibid.

²¹ Moving Target: A Decade of Resistance to the Prison Industrial Complex, 2008. Justice Policy Institute, Washington, DC.

²² Pretrial Release of Felony Defendants in State Court: State Court Processing Statistics, 1990-2004. Bureau of Justice Statistics, Department of Justice. Washington, DC, 2007. Page 10.

²³ S.2495.

covery of fugitives.²⁴ It would put into statute a custom widely practiced for years: the use of public resources (law enforcement) to apprehend bondsmen's fugitives, not bounty hunters. In the current economic climate, however, they may be forced to change. Recently, in Bakersfield, California, police issued a local bondsman a bill for \$8200 for recovery of his fugitive.²⁵

All Hands on Deck

Recently, the National Association of Counties joined other national organizations, such as the National District Attorneys Association and the American Bar Association, in calling for rational and safe pretrial release based upon **risk assessment rather than financial means**. In response, the commercial bail bonding industry has issued an "All Hands on Deck" call to mobilize their constituents to lobby elected county officials. They are asking local bail bondsmen, typically in high competition with each other for local business, to unite to save their commercial businesses.

Conclusion

As the economic downturn continues, and even long after, the commercial bail bonding industry will use the states' budget gaps as an opportunity to intensify efforts to pass legislation restricting or overburdening pretrial programs. ALEC has a map showing the states targeted for attacks in 2009. But there are efforts by national groups, like the powerful National Association of Counties, to help communities. They are "... calling on communities to invest more into pretrial services so that people charged with non-violent offenses who don't need to be confined can be quickly vetted for community programs and the mentally ill can be put

under health care services, or if needed, placed in a secure health facility."²⁶

When these attacks occur in your community, be prepared to respond thoughtfully and effectively. Ensure that legislators, policymakers, criminal justice advocates and the public understand the **facts** about pretrial services. Expose the **truth** about the motives of the commercial bail bonding industry and their desire to maintain their commercial profit. Advocate that states make policy decisions that produce long-term benefits.

You now have the facts and our position. What can you do?

1. Find out if your county has pretrial services by searching your county's website or calling the county clerk's office.
2. Find out how much of your tax dollar is going to pay for the jail time of defendant's authorized for release by the court but who could not post bond.
3. Find out how much bail forfeiture money is owed by bondsmen in your county, and what efforts are being taken to collect it.
4. Contact your State Administrative Agency (SAA) to determine if any of the federal money coming to your state is being used to fund local pretrial services programs, as allowable under the regulations. Find your state's SAA by going to <http://www.ojp.usdoj.gov/saa/>
5. Contact NAPSA for more information, at info@napsa.org.



²⁴ "Bail Bond Fairness Act" Bad for Bail Recovery Agents." By Scott Harrell, Pursuit Magazine, November 17, 2008.

²⁵ "Bail bondsman shocked at bill from police department." By Steve Swenson, The Californian, June 21, 2009.

²⁶ "America's Jail Crisis." By Jesse Bogan, Forbes.com. July 10, 2009.