***Note**: The following are excerpts from the book [You Arrested Me for What?](), author by Richmond, Virginia bail bondsman Dan Barto.*

Pretrial Services

A Subversion of Justice

The Fundamental Flaw with Virginia's Pretrial Services

A fundamental principle of our criminal justice process is that a defendant is innocent until proven guilty. I maintain that a bulk of what pretrial services does in Virginia is in violation of that very principle. A defendant going through pretrial services is not unlike a convicted offender going through probation. Going through pretrial services is essentially being sentenced to probation prior to being tried and found guilty.

When someone is arrested, tried, and found guilty, he or she may be given a probationary period to go through as part of the consequences. What exactly is probation? A typical definition reads as follows:

> Probation is the suspension of a jail sentence that allows a person convicted of a crime a chance to remain in the community, instead of going to jail. Probation requires that you follow certain court-ordered rules and conditions under the supervision of a probation officer. Typical conditions may include performing community service, meeting with your probation officer, refraining from using illegal drugs or excessive alcohol, avoiding certain people and places, and appearing in court during requested times.[7]

In short, if given probation, a convicted person has to check in with the probation officer periodically and may have to meet other conditions. If the offender does not adhere to the conditions, a capias, or an order to arrest, may be issued against the offender. If this occurs, the offender will be rearrested with a probation violation charge.

This process, through pretrial services, is very similar to being sentenced to probation. After someone is arrested, the first appearance before the judge is the arraignment. There, a judge may order the defendant to report to pretrial services as a condition of the bond. The defendant will then be required to report to a pretrial services agent, usually once a week, where he or she is supervised by the agent. The defendant may also be required to submit to drug testing or to attend education or treatment programs. Like probation, pretrial services can issue a capias against the defendant for failure to comply with the stated conditions, in which case the defendant (who has not yet been found guilty) will incur another charge.

For example, suppose a defendant is charged with drug possession, and the judge requires the defendant to report to pretrial services for drug testing and treatment. While awaiting trial and out on bond, the defendant has to report to pretrial services, where he or she will be drug tested. The defendant will also have to attend a drug treatment class. Now suppose the defendant misses a pretrial services date and/or fails a drug test and is rearrested and charged with an additional offense, and another bond is issued for the defendant to be released from jail. Later, at the trial, the original drug charge is dismissed. Now the defendant has the resulting charge to resolve, which came about from an apparently bogus drug charge.

On its face, this is not right. When defendants are out on bond awaiting trial, they shouldn't be placed in a probationary lifestyle, which is exactly what pretrial services is. While there may be some nuanced differences between pretrial services and probation, like rules, guidelines, etc., the biggest, glaring, elephant-in-the-room difference is that probation is done after someone is tried and found guilty, while pretrial services is for the defendant who is awaiting trial. From the defendant's perspective, they're essentially the same: one is prior to the trial while the other is after being found guilty.

Many regard this function of pretrial services as a way to set the defendant up to fail. For instance, suppose the defendant has a serious drug addiction. By putting that person in pretrial services to be drug tested, the odds are pretty good the defendant will fail a drug test somewhere in the process. When that happens, the defendant goes back to jail to deal with the additional charge and will have to pay more costs, such as court fees, to the court.

I have spoken with many of my clients about their experience with pretrial services. Some have said the agent who was assigned to them was pretty good, while others expressed contempt for the assigned agent as well as the entire process. While awaiting trial and assigned to pretrial services, one of my clients was having fairly serious health issues. Because of this, she was unable to check in. However, both she and her lawyer made numerous attempts to contact her pretrial services agent by leaving messages. Their voice messages were never returned. The pretrial services agent twice issued capiases on my client, and twice they were dismissed when my client brought in her phone records to prove all reasonable attempts had been made to contact pretrial services. While these charges were ultimately dismissed, they were a burden to have to deal with for my client. This scenario should not have happened at all.

In addition, the notion of forcing the defendant to show up once a week during the workday can be beyond burdensome and inconvenient. Depending on someone's employment, locality, or inaccessibility to transportation, the defendant can have a very difficult time keeping these appointments. I've had clients who work thirty miles away and have to take off work to check in with their pretrial services agent. Is this not a form of punishment? Now suppose it was a bogus charge and it gets dismissed at the trial. The court forced the defendant to miss work, lose pay, and spend gas money each week to visit pretrial services for a bogus charge. Can that person be blamed for having contempt for their local government?

What Makes Pretrial Services Bad?

In a perfect criminal justice world, pretrial services' role would be, at most, to process the indigent, as was the original stated goal. As already detailed, it has now morphed into an immoral sentencing practice, where defendants are forced into probationary consequences as if already found guilty.

Aside from that, what else is wrong with pretrial services? While most people working in pretrial services agencies may be decent, law-abiding citizens who are just trying to do their job well, what makes pretrial services bad are the people and organizations leading it. To best show this, I decided to take a prominent pretrial services organization and address their arguments for getting rid of commercial bail. As stated before, the pretrial services lobby's agenda is to eradicate commercial bail. So what are their arguments for doing this? Are their criticisms of commercial bail valid? Are they intellectually honest or are they dishonest? I believe I can show that their arguments for getting rid of commercial bail don't hold up to scrutiny.

The organization looked at is the Justice Policy Institute (JPI). It's a Washington DC based nonprofit organization with the mission statement, "JPI is dedicated to reducing use of incarceration and the justice system by promoting fair and effective policies."[8] Note: their mission statement alone, by using vague and misleading words like "fair" and "effective," should raise a red flag. Everyone wants policies to be fair. But what is fair to one person is quite possibly unfair to the next. Groups and people who throw that word around usually mean, "If you don't agree with me, then you're unfair."

In September of 2012, The Justice Policy Institute published a forty-seven-page article titled "For Better or For Profit: How the Bail Bonding Industry Stands in the Way of Fair and Effective Pretrial Justice."[9] It was written by Spike Bradford. The title states the gist of the article.

Before getting into their specific arguments, the terminology used by JPI has to be addressed. Words have meanings and when carefully chosen can elicit an impression. For example, rather than calling a frog a "frog," calling it a "slimy, green, slothful creature" characterizes the frog in a way that gives a negative impression of the frog. This is what Bradford has done with commercial bail. Rather than calling it "commercial bail," it's referred to as "for profit." In its glossary, it has definitions for "for-profit bail bondsman" and for "for-profit bail industry." This is likely intended to give a negative impression of bail bondsmen as being all about money with no regard for the people with whom they are dealing. So be it, but to put this on an equal playing field, there should also be a characterization for pretrial services.

With that in mind, pretrial services programs in this book will now be referred to as "government-worker bail." Yes, I'll be transparent and honest and acknowledge that this is to elicit an impression of an inefficient, uncaring, can't-be-fired, government worker. They're very much like the stereotype of what you deal with when going to the DMV, except the bail bond government worker might make you pee in a cup. So the alternatives are not "commercial bail" versus "pretrial services," but rather "for-profit bail" versus "government-worker bail."

So with that stated, here are my responses to the JPI criticisms of "for-profit bail":

Bail Bondsmen Are Taking Advantage of Low Income Communities

Government-worker bail maintains that because bail bondsmencharge 10 percent (which is mandated by the state), we're taking advantage of the lower and middle class people. JPI claims bondsmen actually have no risk, because they have a legal contract with the cosigners and can obtain the cosigners' assets at any time, and they always get their money. Bradford's article states:

> The bail bonding industry justifies retention of the full fee as compensation for the risks they take and costs they accrue. However, this risk appears to be overstated on two counts. First, those who pay the fee for the bond have signed a legal contract. Bail bondsmen don't write contracts to bail someone out unless they have evidence that the co-signers have the resources to pay. Whether it's a ranch in Montana or a car repair shop in Maryland, the bail bondsman can legally take the assets of co-signers if the defendant doesn't Make their court appearance and the bail is forfeited.[10]

This statement alone tells me that the author, Spike Bradford, appears to have spent very little time, if any, consulting actual bail bondsmen. Or maybe he consulted them, but just decided to disregard the feedback he received. Either way, the above statement is not accurate at all. He maintains that the risks that for-profit bail assumes are largely overstated because bondsmen have cosigners and can get the money from the cosigner(s).

It is true that bondsmen do have cosigners who are legally and financially responsible for the bail bond. However, when a defendant skips court, the court will come after the bondsman for the full amount of the bond. First, should the cosigner refuse to pay, the bondsman must decide whether or not to proceed to civil court. There are court fees and expenses to this. Note also that even if the bondsman is awarded compensation, that does not guarantee the cosigner pays. There may be an option of wage garnishment, but that is another process to go through with more expenses associated with it as well as exceptions to it. For example, disability payments cannot be garnished. And good luck getting money out of the Montana ranch!

So when Bradford asserts that for-profit bail takes advantage of low-income people and assumes little risk, he's simply wrong.

Where Does the Money Go?

Bradford has a page that shows the options for bail that charts to whom the money is paid. He lists four options for bail: a cash bail, a recognizance bond, a government-worker bail (which is referred to as a deposit bail), and a for-profit bail (which is referred to as for-profit bail).[11] Since neither a cash bail bond nor a recognizance bond requires any outside assistance from bondsmen or government workers, I will compare the government-worker bail to for-profit bail with an example of a person arrested and given a $2,000 bond.

First, with government-worker bail, the defendant, or a friend or loved one, would pay the $200 premium to the jail, sheriff 's office, or court. There are also fees involved, which do not get refunded. A $2,000 bond will cost between $225 and $275. If the defendant attends all of the assigned court dates, the $200 is refunded, less court fees and other costs. Should the defendant fail to appear, the $200 is not returned, and $2,000 is then owed to the court by the defendant. So when the government-worker bail lobby maintains that pretrial services removes the bail money barrier for the poor, it is simply not true, because the defendant must still pay the 10 percent, plus the fee, to get out of jail in the first place. It is even more deceptive to say the 10 percent is returned. Court fees and fines are paid first with the 10 percent, so the 10 percent bail premium which the defendant *must* pay prior to getting out is a down payment to the court for court costs, fees, and fines.

With for-profit bail, the family would pay $200 to the bondsman. Most bondsmen do charge a fee as well, typically anywhere between $25 and $50. Regardless of whether the defendant attends all assigned court dates or fails to appear, that $200 premium is not returned. Should the defendant skip court, the $2,000 is then owed to the bondsman.

Again, recall that the initial goal of pretrial services was to provide the service to the indigent. If someone has no means of payment, they shouldn't have to sit in jail awaiting their court date if they are deemed a low flight risk. I have no problem with that. It's like court-appointed lawyers in that they're assigned to defend the poor. However, there are financial qualifications that must be met in order to be awarded a court-appointed lawyer; it is exclusive to the poor and unemployed. The borderline working poor, lower-middle class, middle class, and economically upward either have to pay for their lawyer or go without. A lawyer typically charges a minimum of $150 per hour. Bradford and the rest of the pro-government-worker bail crowd have no problem with this. They don't refer to lawyers as for-profit counsel. If they were consistent and really fighting for the lower income people, they would be calling for an end to for-profit legal counsel and demanding all lawyers be employed by the state. What is more burdensome to the family of the person who gets arrested, the $200 premium or the cost of the lawyer? Quoting further,

"The bail system works for people who are able to obtain release on recognizance and not so well for those who are not able to."[12] This applies to government-worker bail as well. Does the pro-government-worker bail lobby really want to go there? How about "the entire judicial system works for people who can afford it but not so well for those who are not able to?" Recalling how a bail bond is executed in any of the four states where for-profit bail is banned, the defendant's family or friends must pay the entire 10 percent up front. There is no option for a payment plan. However, in states where for-profit bail exists, there are bondsmen who do not require the full premium up front in order to bond someone out of jail. Therefore, I submit that government-worker bail is more burdensome for the lower economic classes than for-profit bail. With all of the unjust procedures and processes being perpetrated by the state criminal justice system, it just seems to be a stretch to believe that the 10 percent bail bond premium is the big one to be corrected, especially when it's being presented inaccurately and falsely.

For-Profit Bail Bondsmen Are Not Criminal Justice Professionals

For this argument, Bradford starts off by claiming that the number of people arrested and booked has skyrocketed. However, he cites no evidence. Also, just because someone is arrested and booked doesn't mean a secured bail bond was issued. This is a sleight-of-hand technique to make a false implication without actually stating it. I believe the opposite is true, at least in the Central Virginia area. For example, the new Richmond City Jail opened in 2014. It was built with less capacity than the old jail. Richmond City's plan to deal with this was to issue fewer secured bonds. A *Richmond Times-Dispatch* article dated December 1, 2013 explained:

> Commonwealth's Attorney Michael N. Herring told the *Richmond Times-Dispatch* that he is now directing his prosecutors—when handling cases in which they normally would request a bond of less than $10,000—to instead ask a judge to release the defendant on his own word that he will return to court and stay out of trouble.[13]

Next, Bradford claims that for-profit bondsmen have no mechanism for determining "*the dangerousness as a factor in their decisionto bond*." Accordingly, our only factor and guidance is the bond amount. First of all, Bradford failed to specify what is meant by "*dangerousness*." Is it that the person being released is a danger to society or a danger that the person will flee and skip court? Either way, this statement indicates the unserious nature of the government-worker bail argument. In Virginia, the magistrates and judges determine if there should be a bond and, if so, how much. One of the factors is the offense; another is the criminal history of the defendant. There are other factors as well. However, it is their job to determine if a defendant should be released while awaiting trial, not the bail bondsman. I have yet to hear of any bondsman who has bonded out a defendant accused of murder or rape.

As for bondsmen using only the bond amount to ascertain the risk, that assertion is absolutely wrong. I would wager a bondsman uses more "*mechanisms*" than government-worker bail agents. Examples include interviews with family and friends, criminal record, employment history, and family relationships. It can be the way someone answers a question that can determine the outcome of performing the bond. I've written $10,000 bonds I felt were safer than some $1,000 bonds.

Bradford also maintains, once again, that the for-profit bondsman is driven solely by the profit motive. I can say that in the several years I've been writing bonds, most bonding agents, myself included, derive satisfaction in helping people get through this legal process. We provide a service to people. While there may be some bondsmen who care only about the money, there are many who take pride in performing this service well. Isn't that the case for most any industry?

What Bradford fails to mention is that writing bad bail bonds is not profitable. Whenever a defendant skips, the immediate costs are paid by the bondsman, not the cosigner. The bondsman attempts to collect the costs from the cosigner; however, if the cosigner is unable or unwilling to pay, the expenses of fugitive recovery and bond forfeiture rest on the bondsman to pay. So following Bradford's logic, if bondsmen are solely motivated by profit, they should be more proficient in judging a safe bond from an unsafe bond.

Bail Bondsmen Don't Address Public Safety

There are a couple of points here that deserve refuting. First, Bradford claims "that most people who miss their court date are apprehended by law enforcement, not bail agents."[14]

But his reference for this is a single person from a district attorney's office in Lubbock, Texas. No study, no statistics, just that a guy from the DA's office said so. Here is some context:

When a defendant skips court, that person is a fugitive. This means that if law enforcement does come in contact with the fugitive, they will perform an arrest. But "come into contact" is the operative idea here. It can mean they get caught, by chance, from a routine traffic stop. Once a defendant decides to skip court, they typically leave their known residence. They move out and stay with friends or family. Usually neither the court, pretrial services, nor the police have the resources to actively pursue the fugitive.

According to the *Henrico Citizen* article "FIT to be served," dated May 12, 2015, there were 3,352 outstanding warrants in Henrico County. A portion of them were for failure-to-appear-in-court warrants and were actively pursued.

> According to Henrico Police Lt. Chris Eley, about half of those people are wanted on criminal charges. For the most part, the other half fall into one of three categories: failure to pay child support, traffic violations or failure to appear in court. . . .
>
> People legitimately forget that they have a court case, and the court issues a capias (an order to arrest) on them for not showing up. It might be six months later (that we pick them up) and they'll say, "Aww, I forgot all about that."[15]

If the fugitive is out on bond via a bail bondsman, it's in the bondsman's financial interest to get him or her back in jail. Bail bondsmen are like any other entrepreneur in that we try to reduce costs. (This is in sharp contrast to government agencies, like pretrial services.) What some bondsmen do for fugitive recovery, depending on the circumstances, is locate the fugitive and then call law enforcement. There have been other instances where the cosigner would inform the police of the fugitive's location, just to get off the bond and avoid having to pay the full amount. Neither of those scenarios would occur with pretrial services.

This is what Bradford's sole opinion source in Lubbock, Texas, has no way of knowing. How did law enforcement come to apprehend the fugitive? These statistics would be very difficult to accurately access, as this type of information is most often not recorded. Clearly, there's more to it than a single sound bite from a guy who works in a Texas DA's office.

The other point Bradford made was that bail bondsmen have no role to ensure the defendant remains law abiding. Yes, that's true. A bail bondsman provides a financial guarantee to the court that a defendant will appear at all future court dates related to the charges on the bond. That is the service we provide, and we do it better, more efficiently, and more cost effectively than any other alternative means, namely, pretrial services.

The question to be asked of Bradford is, "How does government-worker bail ensure the defendant remains law abiding?" The answer is they don't. There is no advantage government-worker bail has over for-profit bail regarding this. If the defendant is checking in with the pretrial services agent, that in no way precludes the defendant from committing another crime.

Unlike Bondsmen, Pretrial Services Agencies Measure Risk, Facilitate Services

Bradford's main point here is that government-worker bail provides many services, like drug testing and social service referrals, while for-profit bail does not. As stated before, this is an injustice to the defendant and should be stopped. It's definitely nothing to brag about. Bradford created a chart that summarized that for-profit bail bondsmen base their decisions only on the client's "ability to pay the bonding fee, assets available to pay full bail if FTA, and their subjective assessment," while the government-worker bail's decisions are based on the "number of prior FTAs, past convictions . . . , employment status, drug abuse status, and other information."[16]

This chart of Bradford's is so deceptive and wrong, it's difficult to know where to start. On the factual aspect of it, he sites no references nor backs up these assertions in any way. To claim that bail bondsmen don't look at prior FTAs, past convictions, drug abuse status, and "other information" is completely absurd. This one assertion calls into question the credibility of both Spike Bradford and the Justice Policy Institute.

His chart and assertions are also contradictory. He states that bail bondsmen base decisions on the client's ability to pay the bonding fee and the assets available to pay full bail if FTA, but not on their employment. Unless the client is independently wealthy, how is that possible? Wouldn't their employment be directly related to their ability to pay the fee and full bail?

Also in the chart is that government-worker bail takes into account their drug status while for-profit bail does not. One of the first lessons a bondsman comes to understand is that a hard-core drug addict is the riskiest bond to write. When someone has charges of "schedule I or II" drugs or larceny, it always requires further questions from a diligent bondsman.

Bail Bonding Is Not "Cheaper" than Pretrial Services

Bradford attempts to refute the fact that government-worker bail is much more expensive for the taxpayer than for-profit bail. His arguments against for-profit bail are wanting. First, he doesn't speak to real costs, but only "collateral" costs. What that really means is that the real costs for government-worker bail far exceed for-profit bail bonding. Government-worker bail requires the funding of an agency. The real taxpayer costs for this include employees, benefits, buildings, maintenance, etc. In Virginia, bail bondsmen are regulated by the Department of Criminal Justice Services (DCJS), but it's only part of what DCJS does. DCJS was not created, nor does it exist, solely to regulate bail bondsmen.

Regarding the collateral costs, his reasoning is, since many people are struggling financially, having them pay the 10 percent premium will cause them to become homeless.[17] This argument is so far-reaching that it's almost not worthy of refuting. However, I will refute it. First and most importantly, it's false. In the four states that have no commercial bail, the 10 percent must be paid before the defendant is released, so there's no advantage for government-worker bail over for-profit bail. Second, unlike the jails in the four states, most bondsmen do work with people regarding the 10 percent premium. This allows the loved one to get out of jail without paying the full bond premium upfront. Bradford's assumption, that people will pay the bondsman before paying for their rent or food, is laughable. In fact, if you were to ask a bondsman about this, the answer would be something like, "We're often the last one on the list to get paid."

So I'm very skeptical about the true agenda of the pro-pretrial lobby. There are elements and policies within the criminal justice system that do place an unfair burden on the lower economic classes. Posting bail is pretty low on the list. It seems like they're picking on the bail bonding industry because if the bail bonding industry were to cease to exist, their agencies would expand to fill the void. The bail bonding industry is in their way. They want to grow their agency, and it's truly a selfish motive cloaked in a deceptive argument that they're sticking up for the poor and helping people. Don't buy it!

Bradford's other argument about for-profit bail being more costly has to do with drug treatment. Government-worker bail performs drug treatment, while bail bondsmen do not. This argument recognizes that many drug cases fall into a dual mechanism of being bonded out with a bail bondsman and also reporting to pretrial services. He contends that once a defendant is placed under the supervision of pretrial services, there is no need for the bondsman, because the government workers will follow and ensure the defendant makes his or her court dates.[18] So there is no need for a bail bondsman, since pretrial services can do both.

I have the best solution to resolve this dual mechanism issue: totally remove this function from pretrial services. Fire pretrial services. The assumption that pretrial services can supervise and ensure the defendant will show up to court is a false premise. Just as bail bondsmen don't make people pee in a cup, pretrial services don't make defendant's show up to court; they simply issue another capias on the defendant for failure to show up to court. Bail bondsmen ensure the defendants show up to court and with no cost to the taxpayer.

For-Profit Bail Bonding Affects Judicial Decisions around Release

The contention by the pro-government-worker bail is that a judge will alter the bond amount based on what bail bondsmen will charge, so the bond amount may be increased substantially. Following an example put forth by Bradford, say a judge deems the flight risk should be $5,000, so the bond should be set at $50,000 (given that most states mandate a minimum of 10 percent premium on bonds). But for states that have no minimum and it becomes common knowledge that defendants are being bonded out with a 2 percent premium, the bond will then be set at $250,000. There's just one problem with this, this entire argument is false and totally made up. To quote:

> The industry standard for bail bond premiums is ten percent of the full bail amount. Many states mandate a minimum bail percent for bond premiums, usually ten percent, **but others have no such restriction.** This allows for-profit bondsmen to compete with each other and under-cut offers by other bail agents, charging as little as two percent of the bail.[19] [Emphasis added]

The "but others have no such restriction" is the operative phrase here and is a complete deception. Bradford failed to specify which states have no such restriction, and that's because there aren't any. The rates vary among states; for example, the bail bond cost in Virginia is a minimum of 10 percent and a maximum of 15 percent, while Nevada is 15 percent or $50, whichever is greater,[20] but there are no states that allow a 2 percent premium for bail bondsmen.

Bail Industry Has Influence in State Legislatures to Fight Government-Worker Bail

For several years, the bail bonding industry has been fighting the pretrial services lobby, trying to protect their industry in states across the nation. This is somehow seen as a negative, perhaps some type of corruptive influence, by the pro-government-worker bail advocates. It is analogous to the typical schoolyard bully beating up on everyone until someone fights back and pops him in the nose. When that happens, the bully cries and whines about the person who fought back.

To abolish bail bondsmen, or compensated sureties, state laws are going to have to be changed. The NAPSA and other pretrial agencies are working to do just that. So am I to believe that it's OK for pretrial services agencies to participate in the political process to further their agenda of taking over the bail industry in order to grow their agencies, but it's not OK for the bail bonding industry to participate in the political process to protect their interests?

Therefore, this complaint that the bail industry is being somewhat underhanded by participating in the political process clearly shows the blind arrogance of Bradford and the pro-pretrial services lobby. The NAPSA and other pretrial services agencies are the aggressors here. Their agenda is to grow their agencies. However, bail bondsmen are in their way. For any state to abolish bail bondsmen, their state and local pretrial services budget will have to grow to take on the extra workload that is currently being provided by bail bondsmen. It will be costly to the taxpayer. Also, those who are incarcerated, and their families, will be the ones who suffer the inefficiencies of being "processed" by another government agency. (They'll still have to pay the 10 percent, so the poor will not be better off.) In the end, those who are arrested, along with their families, will suffer a lower quality service, and the taxpayer will suffer a higher tax bill.

The For-Profit Bail Industry Is Ripe for Corruption

Bradford contends that the bail bond industry is just too corrupt and therefore should be abolished. However, his arguments are scattered and nonsensical. He first points out how the bail industry in the early 1900s in San Francisco was fraught with corruption and graft.

I have to concede these facts. It's generally accepted that the first commercial bondsmen in America were the McDonough brothers, who first worked as bartenders in their father's bar in San Francisco at the turn of the twentieth century. Lawyers would frequent their bar, and the brothers began putting up the bail money for the lawyers. They soon figured out it was more profitable to deal directly with the defendants. They built a network among themselves, the lawyers, the police, and the judges. There was total corruption and graft going on, and everyone was on the take. Note that all aspects of the criminal justice system were involved in this corruption. Bradford gave the judges, lawyers, and police a free pass while pinning it all on the bondsmen. Be that as it may, the bail bonding industry, admittedly, has a very seedy reputation. With that stated, we've come a long way since those days. While there are still issues involving bail bondsmen that could be improved, the reality rarely lives up to the caricature of the bail bondsman who also might ask something like, "Hey, buddy, wanna buy a watch?".

Getting back to Bradford's arguments, he concedes that many bondsmen are honest and truly care about their clients but that some are not. He lists the types of corruption charges: illegal bribing of justice officials and personnel, sex for bail, or brutal and terroristic tactics used to extort clients' friends and family.[21] I'll address each one of these.

Regarding illegal bribing of justice officials and personnel, there is no data to back this up. However, I have heard of this occurring in Virginia jails. Bondsmen have told me they're sure that some bondsmen make associations with either personnel at the jail or inmates at local jails. Whoever is on the take will make sure the person being bonded out lets the bondsman know who got them the bond. The bondsman will then pay off the inmate or staff member later. This is extremely difficult to prove and is therefore regarded as heresay.

In Virginia, the Department of Criminal Justice Services (DCJS) is charged to regulate bail bondsmen. They have the authority to investigate and stop the corrupt bondsmen from writing bonds by removing their license. The solution to this issue is that bondsmen, or anyone else who knows of this, should report it to DCJS. DCJS should then take swift action against the bondsmen, as well as any other participants involved.

As for the sex-for-bail issue, I devote a section of this book to that. I'll just say here that it's against the law, and any bondsman who entertains this payment option should have their license revoked and face the legal consequences.

His last corruption claim is that "brutal and terroristic tactics [are] used to extort clients' friends and family." There is nothing like overstating a case to make a point—badly. His argument for claiming bondsmen employ terrorist tactics is that bondsmen are given complete control over their client's liberty. This control is a "very toxic situation and one in which some bondsmen have succumbed to the lure of corruption."[22] Of course, there's no explanation of what that means or how he got to that conclusion.

Bottom Line

Many of the bondsmen I talk to believe pretrial services should be eliminated completely. Perhaps they are right, but I do think there should be a way for the indigent who pose no flight risk to get bail. However, Virginia and its citizens would be better off if pretrial services programs, laws, and budgets were at a minimum, largely curtailed.

Pretrial services implementation of putting defendants through pretrial probation is an affront to the ideals of our criminal justice system. The Virginia legislature should revisit the Pretrial Services Act (Virginia Code § 19.2-152.2 thru § 19.2-152.7) and, at a minimum, remove all but the very limited and defined role of attending to the indigent. No more drug testing, referrals to treatment or counseling, and, especially, no more issuing capiases. To mention a related aside, from time to time, I hear officials discuss the challenges of jail overcrowding. Typically, the ideas to alleviate it are to give fewer bonds and release inmates who don't pose a risk to society. How about this:Remove the stupid laws that force the police to have to make bogus arrests, like arresting someone for not showing up to a pretrial service's appointment or any other failure to comply to an unjust pretrial condition.

Regarding all of the criticisms of the bail industry by the Justice Policy Institute, authored by Spike Bradford, this book should give evidence that the arguments for eliminating the bail industry in favor of pretrial services are baseless, virtually made up, and serve only to further the agenda of the pretrial services agencies. Even if it is at the cost and detriment of the defendants they purportedly claim to help (which it is), it doesn't matter to the pretrial services lobby that is advancing this self-serving agenda.

Here is a truism that applies to this issue. If there are two opposing sides to an issue, and one side has to exaggerate, overstate their case, obfuscate, and rely on untruths, then their issue most certainly lacks substance, and there's an alternative motive behind it. If the cause is true, why would it have to be backed up by untruths and obfuscation? The answer is, it wouldn't. In this case, the ulterior motive for this is to grow the pretrial services agencies.

Also of note, I attempted to contact Bradford by email to clarify many of his arguments and have not received a response.

Notes

[7] "Probation FAQ." Accessed October 18, 2015, FindLaw, http://criminal.findlaw.com/criminal-procedure/probation-faq.html
[8] "About," Accessed October 18, 2015, Justice Policy Institute. http://www.justicepolicy.org/About1.html
[9] "For Better or for Profit".
[10] Ibid., page 13.
[11] Ibid., page 14
[12] Ibid., page 16
[13] "Prosecutor's plan tackles overcrowding," R. Williams. October 25, 2013. *Richmond Times-Dispatch*. http://www.richmond.com/news/prosecutor-s-plan-tackles-overcrowding/article_56cab4cd-3a29-56d0-b31d-942d39374b11.html?-mode=jqm.
[14] "For Better or for Profit,", page19.
[15] "FIT to be served," R. McKinnon. May 12, 2015. *Henrico Citizen*. http://www.henricocitizen.com/news/article/fit_to_be_served0512#VhuYZflViko.
[16] "For Better or for Profit," page 19.
[17] Ibid., page 21
[18] Ibid., pages 20-21.
[19] Ibid., page 25.
[20] Nevada Revised Statutes. Accessed October 18, 2015.http://www.leg.state.nv.us/nrs/NRS-697.html#NRS697Sec300.
[21] "For Better or for Profit," page 40.
[22] Ibid.