

**SELLING
OFF
OUR
FREEDOM**

THE ANSWER



By Dan Barto

Table of Contents

Forward.....	3
The Basics of Money Bail	4
Who Profits from the Corporate Takeover of Our Bail System?	5
How Bail Corporations Control People’s Freedom	6
Introduction.....	8
How Does a For-Profit Bail Bond Work?.....	10
How For-Profit Money Bail Fuels Mass Incarceration.....	11
The Corporations Profiting from Money Bail	13
The Bail Corporations Control People’s Freedom	14
How the Bail Industry Evades Oversight and Regulation	15
Bail Insurance Corporations Enlist Lawmakers to Keep Control	16
Conclusions and Recommendations.....	17
Endnotes	19

Forward

Pretrial Criminal Justice is not a sexy topic to discuss. For most venues, anyone with a propensity of striking up conversations about bail, pretrial services, or VPRAIs, will almost certainly experience perpetual solitude. As a bail bondsman, I'm naturally more interested than most.

So last summer when I stumbled upon a report by the ACLU Campaign for Smart Justice (CSJ) and the Color of Change titled "Selling Off Our Freedom", I gave it a read. It calls for the elimination of bail. Their contention is the bail industry, specifically insurance companies and bail bonds agents, have corrupted the criminal justice system and therefore should be done away with.

Reading it, what came to mind was a quote by a Chief Judge of the Fifth Judicial Circuit Court, Craig

DeArmond, who wrote, **the bail-reform advocates push their agenda with bad data, outdated studies, and recycled propaganda in the form of "judicial education" with the position there is no other perspective¹.**

The "Selling Off Our Freedom" report is a textbook example of Judge DeArmond's statement. It quickly becomes apparent the report is garbage. The arguments put forth are tired, and to say it lacks intellectual honesty would be an understatement. However, the real dishonesty of the report was shown in the endnotes' sources, where many of them were simply made up.

So why would two supposedly reputable organizations put forth a report which can be so easily debunked? My thinking is because they can and no one will challenge them. To be honest, very few people actually read these reports. The purpose of the report is to grab a headline and put out talking points, not substantively argue or win a wonky policy debate.

Being the criminal justice nerd that I am, I decided to answer the "Selling Off Our Freedom" report by painstakingly challenging the reports' assessments and verifying the sources. But for posterity's sake, I soldiered through their propaganda piece, reading and often wondering if whoever wrote this report (there are no authors listed) actually believed it, or was doing it simply for the money, as they assert as the motives of bail bondsmen.

Anyhow, each title and section in this "Answer" report corresponds to and critiques the same title and section of the "Selling Off Our Freedom" report.

I tried to make this report interesting. Hopefully it may make a small dent in all of the misinformation out there regarding commercial bail.

The Basics of Money Bail

This beginning chapter of their report starts out with a false assertion that “Many plead guilty regardless of the case against them and suffer the long-running consequences of convictions in order to be released.”² This allegation is more specifically addressed in the “How For-Profit Money Bail Fuels Mass Incarceration” chapter, but for now, just understand that it doesn’t make sense as it relates to bail because pleading guilty to avoid the consequences of conviction has little to do with bail.

The article also alleges that many families are lured into exploitive arrangements with bail bond corporations that charge a non-refundable 10 percent fee. This is a mischaracterization on several levels. Families of defendants don’t interact with corporations. They work with bail bonding agents, most of whom are small business owners. While many bail bond agents work under a surety company, many do not and instead use their own property as collateral to the courts for writing bonds. Either way, the claim is overstated. Regarding the 10 percent fee, the bail industry is heavily regulated and the fee is mandated by the lawmakers of the state, not a corporation or bail bondsman.

The next topic in this section is a bemoaning of how corporate insurance companies trap people in a cycle of debt and fees related to their bail payments. This is one of those statements which invites suspicion that their agenda is not what they claim. As a bondman, I see firsthand how people are negatively affected by our criminal justice system, and it’s not bail or insurance companies. Rather, the biggest culprit is that our laws have become increasingly punitive, thus creating criminals where there are none.

Also, **pretrial services has become an agency which sets up defendants to fail and keep them entrapped in the criminal justice system.**

Lastly, the race card is played with statements like “Unsurprisingly, there is racial bias in determining who needs to pay and who does not, and in how high bail is set. Corporate insurance companies are largely responsible for the way the bail system works today, and they are also the largest beneficiaries of it.”³ These reckless and false accusations are not backed up or explained whatsoever. For the record, it is judges and magistrates deciding who gets bail and for what amount, not insurance companies.

Who Profits from the Corporate Takeover of Our Bail System?

The first statement in the section of their report has no bearing to the truth. It states, “In most of America, the insurance corporations and local bond agents that make up the private for-profit bail industry operate in the shadows—little understood and with inadequate oversight.”⁴ Again, no examples or explanations are given as to why the oversight is inadequate. Be that as it may, the answer is there is oversight of the bail industry by the corresponding state governments and insurance bureaus. In Virginia, it’s primarily the Department of Criminal Justice Services. If there is a problem with the oversight, it should be addressed with the governing bodies responsible for it.

The rest of the section talks about how insurance companies actually carry little risk and imply how they carry so much influence over the people and communities because of their lobbying power. It is true the insurance companies carry little risk. The reason is because when a skip occurs, the local bondsman is financially responsible for the bond, not the insurance company. The insurance company will pay only if the bondsman defaults on the forfeiture. Should that happen, the bondsman will likely be relieved from writing under the insurance company, and the insurance company may sue the bondsman for the amount of the forfeiture.

That was the only nugget of truth in the section or the report. More slight-of-hand demagoguery occurred with the statement “Traded in London, Tokyo, and Toronto, or registered in tax havens like the Cayman Islands and Bermuda, these corporations and their executives operate far from the influence of the people and communities over whom they hold so much power.”⁵ The operative words here are “or registered in tax havens *like* the Cayman Islands”. They didn’t say the insurance companies have the tax havens in the Caymen Islands, they just implied they do it *like* that, but provided no evidence of it.

The only other point to make here is they bash the insurance industry for lobbying for bail. However, to observe the recent laws being passed in various states, it seems the anti-bail lobby has the more powerful lobbying group. In fact, the anti-bail lobby are the aggressors here, not the insurance industry. If it is fine for the anti-bail lobby to petition the state legislatures to change the laws to remove bail, why is it so sinister for the pro-bail lobby to keep bail?

How Bail Corporations Control People's Freedom

This section of their report is simply fabricated hysteria. It's just more of the same tripe of how bail corporations control who gets out of jail, rig the contacts to keep families in debt, and invade their privacy.

First, I've never heard of a bail corporation. I would challenge the Color of Change or the ACLU CSJ to name one. If they really mean insurance companies, insurance companies have nothing to do with deciding who gets out of jail. The first line are the judges and magistrates. If a surety bond is required, the local bondsmen will be called on and may or may not bond the defendant out. The bondsmen will speak to the loved one(s) and look at many factors of both the defendant and cosigner, which includes: past and present charges, any FTAs, drug usage, and where the person resides. Should the bondsman decide to execute the bond, the contract between the bondsman and cosigner comes from the bondsman, not a fictitious bail corporation bogeyman.

Next, their depiction of installment plans is deceitful and shallow. When a bondsman agrees to a partial payment plan, it is no different than any other creditor, be it a contractor, landscaper, or any other business. Should the cosigner not pay, the bondsman may choose to do what any other creditor can do, which is take the person to civil court for the judgement and pursue it as it as any debt collection.

Lastly and most important, this next false claim in their report sets an incredulous tone: "People who post bail directly with courts get their money returned at the end of a case, *regardless of its outcome.*"

Regardless of the outcome? That statement is completely false. **Does the Color of Change and ACLU CSJ really what to stake their reputation on their claim that cash bonds are returned at the end of the case *regardless of its outcome?***

It appears that whoever wrote the "Selling Off Our Freedom" report has no idea of what they're talking about. The fact is, should the entire bail amount be paid for the release of the defendant, followed by the defendant skipping court, the money will NOT be returned.

However, it could they are referring to what is known as '10% Cash Deposit Bail'. Over the last several years, some courts have been implementing this policy, which really amounts to jurisdictions obtaining a prepayment for jail fees, court fees, and fines from defendants.

For this, a 10% premium plus fee for the defendant release is still required, but the money goes to the jail or local jurisdiction rather than the bondsman. As long as the defendant shows up to court, the money will be returned less fines, court fees, and jail fees. But if the defendant flees, the money is NOT returned.

Aside from the ACLU CSJ and Color of Change getting it wrong, the point is that low-income defendants are still stuck in jail under this mechanism. Actually, this is worse for the poor because the entire 10% plus fee must be paid before the defendant can be released.

By contrast, while the 10% premium is not returned from the bail bondsmen, bondsmen do have the flexibility to accept partial payments. Is it really better for the poor to have their only affordable alternative of getting their loved one out of jail removed?

The ACLU CSJ, Color of Change, and all other anti-bail charlatans complaining about the 10 percent fee seem to have no issues with the local jurisdictions charging the 10% bond fee. This is just another indicator that these groups are exploiting the poor to advance their own agenda and don't really care about minorities, the poor, or anyone else.

Introduction

The introduction starts out with a couple of sourced statements of how the number of financially secured bonds for felony defendants have increased in the last twenty years. However, they cherry-picked from their sources to make it appear there's been a recent policy shift benefitting bail. That implication is false.

Two of the sources used for this were statistics from the U.S Department of Justice (DOJ) which do state the secured bonds for felony defendants have increased. But no context is provided, inconvenient details are left out, and the report actually refutes many anti-bail arguments. For example, the failure-to-appear (FTA) rates for defendants released on secured bonds are significantly lower compared to other public forms of pretrial release. Could it be that judges in many jurisdictions know that commercial bail has much lower FTA rates than all of the public anti-bail alternatives? One of the DOJ cited sources made the case for this:

“By type of release, the percent of the defendants who were fugitives after 1 year ranged from 10% for unsecured bond releases to 3% of those released on surety bond.”⁶

There are many instances of jurisdictions returning to commercial bail after experiencing public, “risk-based” pretrial bail⁷. The detrimental effects include the added time, expense, and burden for courts, sheriff departments, and police departments⁸. Taxpayers, while being made less safe as a result of these reforms, are forced to pay it.⁹.

The rest of the section is mainly a regurgitation of the same over-simplifications, stereotypes, exaggerations, and finger-pointing of how the poor are being exploited by newly-invented term “bail corporations”. An example of this is in their claim, “Across the United States today, around 450,000 people— approximately 70 percent of all people in jail—sit in jail though they remain innocent in the eyes of the law.”¹⁰

The source for this claim is a 2015 Department of Justice report which states “The growth in the overall jail inmate population since 2000 was due to the increase in the un-convicted population. Regardless of conviction status, about 68% of jail inmates in 2015 were held for a felony offense,…”¹¹. Of the incarcerated defendants in the report, it states the 2015 data was based on inmates confined on a single day, December 31, 2015. There is no telling how many of the un-convicted inmates were there because they couldn't afford the bail and remained until trial, those who happened to be there that day and were later bonded out, or those who were there with no bond. The ACLU CSJ and Color of Change are simply being dishonest.

The hypocrisy comes in when the anti-bail crowd claim defendants are innocent in the eyes of the law.

The ACLU CSJ and Color of Change have no problem having defendants assigned to pretrial services, a government agency which literally puts defendants on probation prior to being found guilty.

For defendants unlucky enough to be assigned to pretrial services, they will have to report to a pretrial services agent weekly or bi-weekly and be required to perform one or more of the following:

- submit to drug or alcohol testing,
- attend mandated classes which they must pay for,
- wear a GPS ankle bracelet which they must pay for (depending on the state), and/or
- wear a SCRAM ankle bracelet which they must pay for (depending on the state).

Pretrial Services was initially created to provide a financial pretrial release path for indigent defendants. It quickly became a corrupt, twisted, ugly stepchild of the stated goal and instead entraps defendants in the criminal justice system, especially the poor. For those who speak out against private bail on behalf of the defendants yet advocate this type of pretrial treatment clearly shows their intentions are not for the betterment of defendants or criminal justice, but rather seek to end private bail at all costs.

How Does a For-Profit Bail Bond Work?

This short section of “Selling Off Our Freedom” is peppered with distortions and false innuendos. The first paragraph claims the revenues for the bail industry are estimated at \$1.4 to \$2.4 billion.¹² There are a couple of issues with this statement. First, their source is a report titled “Following the Money of Mass Incarceration” by the Prison Policy Institute. The Prison Policy Institute has an extreme anti-bail disposition, so this source is hardly unbiased and invites skepticism. The other issue is their \$1.4 to \$2.4 billion. After having gone through the report, I could not find where it stated \$2.4 billion. It appears it was just thrown in.

The second paragraph claims that the additional fees charged may exceed the mandated 10%. The only time I’ve ever heard of this is for a \$500.00 bond. Most bondsmen will not get out of bed to spend 2-4 hours bonding someone out for \$50.00, so they may charge \$100.00 or \$125.00 as a minimum. But it’s a meritless claim for any bond at or above a \$1000.00.

This next quote from the third paragraph encapsulates the unserious manner of this report: “Most contracts reviewed by the authors of this report have also included additional fees and often onerous conditions on a person and their co-signers.”¹³

This first issue is the source for this claim, which is just a random, written sentence and has nothing to do with onerous conditions:

“Family members who take on responsibility for a loved one’s bail are more accurately called indemnitors. That is, they are obligated to pay when their loved one does not or cannot.”

Is this a joke? Did they use that as a source?

The other problem with this quote are the three words “by the authors”. Their report lists no authors. It acknowledges contributors and researches, but no person actually put their name on this. With sloppy, fictitious sourcing like this, it’s no wonder no one would sign their name to it.

The last ` say they are, why do the creators of this report have to exaggerate?

How For-Profit Money Bail Fuels Mass Incarceration

Just know this short section is completely bogus. The premises are fantasy, the references are specious at best, and their allegations are made up with no regard to reason or facts.

It begins by claiming there is a massive expansion of “money-bail” and it’s correlated to the mass incarceration. For anyone who follows pretrial criminal justice knows this is false. For example, commercial bail has recently all but ended in New Jersey, Maryland, and New Mexico.

Also, to claim that private bail is responsible for mass incarceration is over the top. There are several factors which impact the rising incarceration rates, two of which are (1) the laws have become more punitive, and (2) the creation and expansion of pretrial services.

With states enacting more and more punitive laws, non-criminals are now being arrested for non-crimes. Jail is not just for criminals

anymore. For example, in Virginia, drivers’ licenses are suspended for not paying fees and/or fines, and driving without a valid license is an arrest-able offense. The blame for that falls at the feet of the state lawmakers, not bail.

The second reason for mass-incarceration is the expansion of pretrial services. As mentioned previously, pretrial services is essentially pretrial probation. Failure to report and cooperate with the ~~probation~~ pretrial officer will result in another charge and an arrest warrant. Pretrial services keeps defendants in the system, racking up more court fees and charges. This disproportionately negatively impacts the poor. I’ve had cases where the defendant does not have the transportation to make the appointment. Numerous clients have told me they lost their job because of pretrial probation. All of this is done prior to any findings or admission of guilt. It is immoral and wrong, yet the Color of Change and ACLU CSJ remain silent, if not supportive, of this travesty.

Next, a gross misinterpretation of the U.S. Constitution is not beyond the scope of the “Selling Off Our Freedom” report. It states, “The U.S. Constitution does not take denial of liberty lightly—people who have not been convicted of a crime generally have the right to go home to maintain jobs, pay their bills, take care of loved ones, and mount a defense while their case continues.”¹⁴

Bail is specifically addressed in the Eighth Amendment of our Constitution and there is nothing “general” about it. The Eight Amendment reads:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

As the former Solicitor General Paul D. Clement expertly asserted that monetary bail is plainly constitutional:

“Plaintiff would have this Court effectively abolish monetary bail on the theory that any defendant is entitled to immediate release based on an unverified assertion of indigency. Nothing in the Constitution supports that extreme position. Instead, the text and history of our founding charter conclusively confirm that monetary bail is constitutional.”¹⁵

Although the “Selling Off Our Freedom” report is heavily referenced, the references contain little substance and are merely empty placeholders.

Another example of this is by their referenced claim “Ninety percent of people in jail awaiting resolution of felony charges in 2009 in the majority of the nation were still detained even though bail had been set.”¹⁶ This refers to a 2013 Department of Justice report titled “Felony Defendants in Large Urban Counties.” The problem is I read through this report and couldn’t find it, and their endnote for it did not have a page number. It appears they put a reputable reference but made up what it says.

The next issue with this section has to do with playing the race card against bail. They claim that “money bail is racially disparate...Black defendants between the ages of 18 and 29 received higher bail amounts and were less likely to be released on recognizance than were white defendants.”¹⁷ Their source is from an abstract on the Taylor and Francis Group website, but says no such thing. It actually says “when legal factors are considered, the differences were nonsignificant. But when considering interaction effects there was a difference relative to other demographic subgroups.”¹⁸ There was no comparison to whites.

Finally, they decry the fact that poor defendants who are given court-appointed attorneys and remain in pretrial jail are often pushed to plead guilty regardless of the innocence. There are very good public defenders doing their best for their clients, but I see all too often the defendants are simply processed and their case plead down regardless of their innocence.

However, it’s not because they can’t pay the bond and therefore sit in pretrial jail. It’s a larger issue with our judicial system itself. I hear the same complaints from defendants who are out on bond, which include: “my lawyer doesn’t return calls”, “my lawyer won’t talk to me”, and “my lawyer spent ten minutes with me before the trial and just told me to plea it down”. To claim it’s only because they’re in jail is just silly. If that’s really the case, the issue is with the public defenders for not visiting them in jail to understand their case.

The Corporations Profiting from Money Bail

This entire section of “Selling Off Our Freedom” is built on a premise of envy and division. The premise is that because insurance companies are profiting from bail bonds, defendants and the justice system are negatively impacted.

It is true that insurance companies do get revenues and profits from bail bonds, but that does not mean others are being exploited or are paying some kind of penalty. While there is no perfect system and it's not without its' flaws, understanding the private bail systems' purpose and history should dispel this

simplicistic, brainwashed thinking. Also, **the only true exploitation going on here is from the anti-bail charlatans who exploit the poor and minorities to further their anti-freedom agenda.**

In a nutshell, our bail system originated from medieval England. Bail was the solution to the issue of the accused fleeing with no recompense to the victim. That solution was having a surety for the defendant. The surety would be responsible for the arrestee showing up to court when required. Once the surety was established, the defendant would be set free to later appear in court. If the defendant fled, the surety would pay the accuser the full amount of bail.

While bail has since changed and evolved to what it is today, a basic principle remains: a surety is required to be financially responsible for the bond. Should the defendants flee, the courts require assurance that bail bondsmen will be able to cover the bonds they write. But as the saying goes, you can't squeeze blood out of a turnip and if a bondsman writes a bad bond which he or she can't cover, the state would ultimately incur the loss. Enter the insurance companies to solve this issue. If an insurance company is backing the bond which goes bad and the bondsman can't cover it, the bond will be paid by the insurance company.

For that financial backing, the insurance company does get a percentage of each bond written by their bonding agents. This is standard practice in all forms of finances and the fact that they get revenues from this does not mean defendants, or anyone else, suffer.

The Bail Corporations Control People's Freedom

This section begins by showing how contradictory and scattered the "Selling Off Our Freedom" report is. After continually repeating how "bail corporations" and insurance companies have taken over the bail system and control who is set free, and directly under the heading "How Bail Corporations Decide Who is and Isn't Set Free", they state that bail bondsmen (not the insurance corporations) decide which defendants go free.¹⁹ Now if only they would just acknowledge that judges and magistrates play a role.

The truth is bail bondsmen assess the risk based on several factors including: the defendant's charges, prior failure-to-appears, employment, is the defendant local, and prior charges. However, **the risk-based tool bail bondsmen have which no government-provided pretrial mechanism has are the defendants' family and friends. Meeting and talking with the defendants' loved ones provides superior insight in evaluating risk, which is a one reason private bail consistently has lower FTA rates than all forms of public bail.**

As with any other business, there is a profit motive. That does not mean there is something sinister about it or they are only concerned about the bottom line. Bail bondsmen provide a valuable service to the community, and most take pride in the service, doing so with professionalism and courtesy. The old stereotype of the bail bondsman is rarely the person the defendant meets in the middle of the night after being bonded out of jail.

They then claim "bail corporations" trap people in debt, which is completely false. If a cosigner does not pay the amount due, a bondsman, not the "bail corporation" can only sue the client. If the client chooses not to pay, the bondsman can either let it go and do nothing, mark the cosigner's credit as bad, or, under certain conditions, garnish their wages.

The other item missed in this report is how pretrial services forces defendants to pay for educational courses, SCRAM and GPS bracelets, and travel costs, all before trial. I have had several clients tell me how pretrial services forced them to lose their job. The Color of Change and ACLU CSJ endorse this guilty-before-trial sentence by the state.

How the Bail Industry Evades Oversight and Regulation

This section is total garbage, as evidenced by its' first allegation being a non-sequitur. The invalid premise is that since each state has its' own rules for regulating bail, then "This piecemeal regulatory system means that for-profit bail has privatized a crucial piece of the criminal justice system and gained control over people but isn't fully under the control of the courts".²⁰

The non-sequitur is that since bail is not regulated by the same authority or by the same rules, this privatization has allowed it to control people. That reasoning simply doesn't make sense.

Also, since bail bondsmen are typically regulated by the state's Department of Criminal Justice Agencies, this issue should be addressed with the agency, not bail bondsmen. Lastly, who says bail is to be under the control of the courts, as they claim?

Bail Insurance Corporations Enlist Lawmakers to Keep Control

The fact that the bail industry fights to protect the criminal justice system which benefits all citizens, especially the poor, against corruptive, anti-bail policies consistently brings about the same shrill, whiny lamentations from the anti-bail crowd. Fortunately for my conscience, being on the pro-bail side aligns with preventing a degradation of our system of justice and protecting the poor.

This section of “Selling Off Our Freedom” is just another chorus of how sinister the pro-bail lobby is to participate in the political process to protect the publics’ interests, as well as their own. The anti-bail lobby has every right to participate in the political process, but when the pro-bail side does so, it’s somehow nefarious. This is akin to a schoolyard bully crying to his mommy after someone fights back and punches him in the nose.

Make no mistake, it is the anti-bail lobby who are the aggressors in this fight. The pro-bail lobby is on defense. This section of their report takes specific aim at the American Bail Coalition (ABC) and its’ Executive Director, Jeff Clayton. ABC has been a thorn in their side for some time now.

What is left out of the report was *how* the anti-bail lobby is fighting to end bail. The anti-bail lobby found that it’s very difficult to get the votes in the legislatures to remove bail, so they’re doing it by judicial fiat and by suing cities.

An example of removing bail by judges’ decree would be what happened in the state of Maryland last year. The Maryland State Supreme Court ruled that localities should not hold criminal defendants in jail before trial when they cannot afford bail, and instructed judges and magistrates to look at surety bail as a last resort. Seven individuals (judges) altered this policy, thus disregarding the Maryland citizens.

An example of suing localities is mentioned in this section of the report where it complains about the ABC teaming up with other non-profits to hire former Solicitor General Paul D. Clement to file an Amicus Brief, defending the bail industry in Calhoun, Georgia.²¹ What it left out was that the Washington, D.C.-based Equal Justice Under Law foundation was suing the city of Calhoun, GA and ABC got involved to aid the city of Calhoun.

The tactics of the anti-bail lobby are undemocratic and heavy-handed. If bail is as bad as they claim, the public would align against it and laws would be changed lawfully and democratically. The bail industry has to fight this battle at all levels of government because that is the field where anti-bail lobby has chosen to take this.

Conclusions and Recommendations

Their report obviously recommends the elimination of bail with several proposals. Among them, followed my responses:

- “Where for-profit bail continues, state and federal regulators, attorneys general, and legislators must immediately investigate the industry and conduct ongoing oversight. Further investigations will bring more stories to light, create a greater understanding of the perverse and harmful operations of the industry, and expose unethical activity.”²²

States already have this oversight and if it’s inadequate, that is not the fault of the bail industry. Also, what specifically should they to investigate? The tone and generality of this implies guilt is

to be assumed for bail bondsmen. **Shouldn’t there at least be a crime involved to investigate? It appears the Color of Change and ACLU CSJ does not believe in the ‘innocent until proven guilty’ principle; at least not for defendants under pretrial services and not for bail bondsmen.**

- “Judges and prosecutors should reevaluate their practices of assigning unaffordable bail amounts and consider instead release on one’s own recognizance or, where appropriate, reasonable non-financial conditions of release. Where courts order money bail, they should rely on unsecured bonds rather than profit-motivated surety bonds.”²³

Again, non-financial conditions of release implies pretrial probation, a form of punishment reserved for *after* someone is found guilty. Many of these non-financial conditions are, in fact, financial. The defendants have to pay for educational classes, and GPS and SCRAM bracelets.

- “Legislators and public officials should respond to communities’ demands and work to create a stronger and fairer criminal justice system that neither depends on money bail nor supports it.”²⁴

If the public were demanding bail be stopped, the legislators would have already passed the laws doing so. The ACLU CSJ and Color of Change do not speak for the public, although it appears they think they do. What they really mean is the legislators and public officials should end private bail despite what the public thinks.

- “Corporations interested in operating ethically should take a close look at their business ties and investments and cut any ties to the bail industry.”²⁵

It’s doubtful the people who run corporations need any advice from the ACLU CSJ or Color of Change. If the ACLU CSJ or Color of Change are really serious about curtailing the exploitation of inmates by corporations, perhaps they should look at Global Tel Link (GTL), the leading phone service provider which exploits the families of inmates by charging outrageous fees for phone calls. This practice is sanctioned by the local government officials and ignored by the Color of Change and ACLU.

There are many areas where exploitation of inmates in our criminal justice system actually exists, but the ACLU CSJ and Color of Change does not want to be bothered with these real issues. Rather, they pursue their twisted agenda which degrades the criminal justice system, hurts communities, and ensnares defendants in the system, especially the poor and minorities.

The “Selling Off Our Freedom” report deserves to be disregarded for the dishonest propaganda that it actually is.

Endnotes

¹ Craig DeArmond “Bail Reform – Is there another side to the argument?”, September, 2016, Accessed January 4, 2018, <http://files.constantcontact.com/1393fc7a501/b0fe284c-190b-42cb-a71b-1fb74b399b2c.pdf?ver=1475094008000>

² Ibid, page 2.

³ “SELLING OFF OUR FREEDOM: How insurance corporations have taken over our bail system,” Color of Change and ACLU Campaign for Smart Justice. May, 2017, Justice Policy Institute. <https://www.aclu.org/report/selling-our-freedom-how-insurance-corporations-have-taken-over-our-bail-system>. Accessed January 4, 2018

⁴ Ibid, page 2.

⁵ Ibid, page 2.

⁶ U.S. Department of Justice, Office of Justice Programs. November 2007, NCJ 214994. Accessed January 4, 2018. <https://www.bjs.gov/content/pub/pdf/prfdsc.pdf> .

⁷ “Maples: Bail bond systems works well for Potter County”, Judy Maples, January 4, 2018. Amarillo Globe-News., Accessed January 4, 2018, <http://amarillo.com/opinion/opinion-columnist/guest-columnist/2016-04-09/maples-bail-bond-systems-works-well-potter>

⁸ “Bail reform to require 'extraordinary amount of resources,' judge says”, www.nj.com, Ben Horowitz, Accessed January 4, 2018, http://www.nj.com/morris/index.ssf/2015/09/judge_bail_reform_to_require_extraordinary_amount.html

⁹ “New Jersey Police Detective Speaks Out Against Bail Reform”, www.shorenewsnetwork.com, Phil Stilton, Accessed January 4, 2018, <http://www.shorenewsnetwork.com/2017/02/new-jersey-police-detective-speaks-out-against-bail-reform/>

¹⁰ “SELLING OFF OUR FREEDOM: How insurance corporations have taken over our bail system,” Color of Change and ACLU Campaign for Smart Justice. January 4, 2018, Justice Policy Institute. <https://www.aclu.org/report/selling-our-freedom-how-insurance-corporations-have-taken-over-our-bail-system>. Page 6. Accessed January 4, 2018.

¹¹ “Jail Inmates in 2015.” U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. December 2016, NCJ 250394. Minton, Todd D. and Zhen Zhenj, Accessed January 4, 2018. <https://www.bjs.gov/content/pub/pdf/ji15.pdf>

¹² “SELLING OFF OUR FREEDOM: How insurance corporations have taken over our bail system,” Color of Change and ACLU Campaign for Smart Justice. May, 2017, Justice Policy Institute. <https://www.aclu.org/report/selling-our-freedom-how-insurance-corporations-have-taken-over-our-bail-system>. Page 14. Accessed January 4, 2018.

¹³ Ibid, page 14.

¹⁴ Ibid, page 18.

¹⁵ Brief for Amici Curiae American Bail Coalition, Georgia Association of Professional Bondsmen, and Georgia Sheriff's Association, Maurice Walker v. City of Calhoun, U.S. Court of Appeals, 11th Circuit, Case No. 16-10521. Filed June 21, 2016, available at <http://www.americanbailcoalition.org/wp-content/uploads/2016/06/abcgapbbailamicus.pdf>

¹⁶ Ibid, page 18.

¹⁷ Ibid, page 18.

¹⁸ Quoting from it, "Analyses of over 5,000 felony defendants from an urban Ohio jurisdiction revealed that significant main effects of a defendant's race on release on one's own recognizance (ROR), bond amounts, and prison sentences were rendered nonsignificant when controlling for legal factors, such as offense severity. Analyses of interaction effects, on the other hand, revealed that African American males age 18–29 experienced lower odds of ROR, higher bond amounts, and higher odds of incarceration in prison relative to other demographic subgroups, even with the inclusion of rigorous controls for legally relevant criteria."

Wooldredge, John. "Distinguishing Race Effects on Pre-Trial Release and Sentencing Decisions." Justice Quarterly 29, no. 1 (February 2012): 41–75. Accessed via Taylor & Francis Online database on January 2, 2018. <http://www.tandfonline.com/doi/abs/10.1080/07418825.2011.559480> .

¹⁹ "SELLING OFF OUR FREEDOM: How insurance corporations have taken over our bail system," Color of Change and ACLU Campaign for Smart Justice. May, 2017, Justice Policy Institute. <https://www.aclu.org/report/selling-our-freedom-how-insurance-corporations-have-taken-over-our-bail-system>. Page 28. Accessed January 2, 2018

²⁰ Ibid, page 36.

²¹ Brief for Amici Curiae American Bail Coalition, Georgia Association of Professional Bondsmen, and Georgia Sheriff's Association, Maurice Walker v. City of Calhoun, U.S. Court of Appeals, 11th Circuit, Case No. 16-10521. Filed June 21, 2016, available at <http://www.americanbailcoalition.org/wp-content/uploads/2016/06/abcgapbbailamicus.pdf>

²² Ibid, page 46.

²³ Ibid, page 46.

²⁴ Ibid, page 46.

²⁵ Ibid, page 46.