

A California Snapshot to Selling Off Our Freedom: How Insurance Corporations Have Taken Over Our Bail System

Selling off our Freedom, a national report released by Color of Change and the American Civil Liberties Union, exposes how insurance corporations have created an unnecessary and largely unaccountable \$2 billion bail industry that profits from trapping people both inside and out of jail, often for long after their court cases have been resolved. This fact sheet provides a brief overview of the bail industry's impact and influence in California.

Bail Insurance Corporations Reap Rewards at Low Risk

Bail insurers have shaped the industry to protect their profits. While the industry touts the risk of forfeiting bail as the primary incentive for performance, bail insurance companies put the responsibility for losses onto the bail agents – who in turn routinely put the responsibility on families that are forced to forfeit collateral property or pay the bail agents the entire bail amounts.

Overall, industry-wide losses are extremely rare – unlike all other insurance business – and even when bail insurance corporations report them, they suffer no real losses. In financial filings, the bail insurers say that even reported losses are not necessarily real. In its 2015 filings with California's Department of Insurance, *Lexington National Insurance Company*, a Maryland-based bail insurer, reported that losses are mostly a timing issue and are usually recouped the following reporting period.

Bail Corporations Trap People in Debt

For-profit bail bond companies take advantage of the urgency of detention to bind people to contracts that can mean debt and payments that last far longer than any court proceedings.

In just *5 months* of 2016, nearly **200 people** in **San Joaquin County** paid for-profit bail companies to be freed from jail where no case was even filed and the charges were dropped. For-profit bail companies would likely have charged these families around \$400,000 to post the bonds.

Often, for-profit bail companies advertise steep discounts in up-front payments from the typical 10% premium. But when families paid less than

the full premium up front, the remaining debt on the installment plan is still owed to the bail bond company long after charges are resolved or dropped, even though the company has no

In San Francisco, Carlos Valiente was arrested and had bail set at \$70,000. The construction worker, who earned \$14 an hour, and his mother paid California's largest bail bond agency, Aladdin, \$1,000 and owe Aladdin an additional \$6,000 in installments. Valiente's case was dismissed, but he still owes Aladdin more than \$6,000, which he will try to pay off over the next four to five years, reported KQED.

Melodie Henderson, a San Diego resident and small business owner, was arrested 11 years ago. After her bail amount was set to \$50,000, Melodie had a choice – pay the bail bondsman and go into debt, or sit for days in jail until her court date and risk her job, apartment, car and family. It wasn't a real choice. Unable to afford the whole amount, her and her grandparents went through a bail bonds company to secure her release as her case moved forward. She spent years trying to pay back the bail bondsman, postponed school, got behind on other bills, and severely damaged her credit.

further obligation to the court and faces zero financial risk of having to pay out on the bond.

The Bail Industry Evades Oversight and Regulation

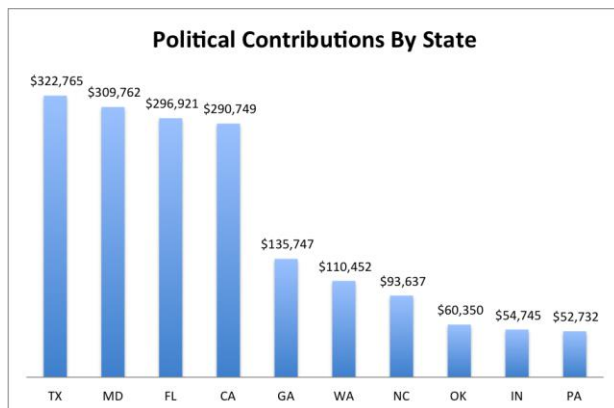
In California, the California Department of Insurance (CDI) regulates and licenses individual agents.

In the last few years, the CDI Commissioner, Dave Jones, has sought unsuccessfully to increase funding the Department receives to monitor for-profit bail. Until now, CDI has reported that bail is less than 2% of the state insurance market, but more than 10% of its enforcement workload. Between 2010 and 2015, **complaints about for-profit bail to the CDI nearly quadrupled**, with common complaints including scams, misrepresentation, extortion and kidnapping, bribery, perjury, theft, fraud, and more.

When CDI invested more substantial resources into enforcement, the result was Operation Bail Out, in which 31 bail agents from seven different bail bond agencies across five northern California counties were arrested in September 2015. The sweep followed an extensive investigation into illegal business practices, corruption, illegal solicitation, and more.

The For-Profit Bail Industry Fights Reform

In ten states, the for-profit bail industry contributed more than \$1.7 million to state-level candidates, committees, parties or ballot measures in the 2010 through 2016 election cycles. This conservative figure from centralized national database does not include contributions from bail insurers with substantial business interests beyond bail.



In California, for-profit bail corporations and associations spend to derail reforms at every level.

At the state level, the industry vehemently opposed the 2014 passage of Proposition 47, which reduced penalties for low-level drug and petty theft offenses – what bail industry representatives called the “bread and butter” of the bail industry. Led by **Aladdin Bail Bonds** and **Lexington National Insurance Company**, the industry was second only to law-enforcement in funding the opposition campaign.

The industry’s opposition spending on Prop 47 was part of nearly \$300,000 in industry contributions to California state-wide candidates and committees in the 2010 to 2016 cycles.

At the county level, the industry has focused on local officials to defang reform there. In October 2016, **Santa Clara County** voted on reforms that will significantly reduce the use of money bail. Leading up to the vote, an elected Supervisor extended for-profit bail corporations a “lifeline” amid proposals that will radically reduce the number of people who are presumed innocent who are incarcerated in the county. San Jose Inside reported that the CEO of large California bail agency, **Bad Boys Bail Bonds**, had held a fundraiser for that supervisor’s failed 2014 mayoral run at his Willow Glen home, and that he and others in the industry had given \$6,000 to the Supervisor’s political campaigns since 2012.

For a full look at *Selling off our Freedom*, visit www.aclu.org.

