

## Bail Reform – Is there another side to the argument?

Was I the only one who felt like we were being asked ..., no, **told** we had to drink the Kool-Aid of no money bail reform or face eternal damnation?

After the June Starved Rock conference preceding the Chief Judges meeting I decided to delve a little deeper into this topic because I was struck by how strident the criticism of a system under which we have operated our entire professional lives and which has been in existence far longer. I recognize longevity, in itself, is no indicator of the continued efficacy of a practice, however there is substantial justification for the system as it now exists. How could we have been so wrong? How could we be so myopic as to be unable to see the inequity, when we are constantly striving for fairness in our courts? As was noted in the *2013 Report of the Advisory Committee on the Criminal Justice System in Philadelphia*, 51 (Jan. 2013)

“ Despite 50 years of vigorous advocacy for the elimination of monetary terms of release by the ABA and most of the legal academy, the pretrial disposition system in most U.S. jurisdictions continues to rely heavily on surety bail. “

Is that simply because the vast majority of jurisdictions are full of Neanderthals who have not seen the light? Or is it possible there is justification in both cost and proven results which favors some form of cash bond system to ensure a defendant’s appearance and compliance?

Although the Bail Reform Act of 1966 is frequently cited as the framework for “no money” bail theory, the bail reform advocates seem to forget the last two of the five major provisions of the Act:

“4. a 10 percent deposit of the total bond amount would be sufficient for release; and

5. all defendants held for 24 hours or more would have their case reviewed for bail in 24 hours.”

It is clear from the Act that although release on recognizance is favored, there is no question cash bail was considered appropriate under certain circumstances and a bond hearing should be held soon after being placed on a cash bond. We do that now with our *Gerstein* hearings and at least in our jurisdiction, if the defendant does not make bond, at that time, he has a full bond hearing at his/her arraignment the next day.

What I found was the people so vehemently advocating this massive change in the bail system have been doing so under different names and different umbrellas for several decades. What they have in common is a progressive agenda being marketed as “evidence based practices”; the current buzzword in social engineering. Frequently funded by progressive philanthropists like George Soros and others, these groups have a much broader agenda than merely bail reform.

Don’t get me wrong... although I don’t personally agree with George Soros and his world view, nor will I ever be mistaken for a progressive, I have no problem with the fact that they are able to express their views. I take issue however, when we are given bad data, outdated studies, and recycled propaganda in the form of “judicial education” and being told essentially, there is no other perspective.

It does not take long when you start researching bail reform to find alternative positions, studies, and evaluations of the same data which produce dramatically different conclusions.<sup>1</sup> It takes even less time to find jurisdictions which tried an increased use of no money bail and eventually returned to an expanded cash bail system due to the

---

<sup>1</sup> Bureau of Justice Statistics (November 2007) *Pre-trial Release of Felony Defendants in State Courts*, Special Report, Interestingly, this is the same authoritative statistical source used by the Pre-trial Justice Institute. The report found: (1) About 3 in 5 felony defendants in the 75 largest counties were released prior to the disposition of their case, and on average, released defendants waited 3 times longer for case disposition; (2) 1/3 of released defendants committed some form of pre-trial misconduct while free on bond, 1/4<sup>th</sup> failed to appear, and 1/6<sup>th</sup> were charged with new offenses; with more than half being new felonies; (3) Defendants on financial release were more likely to make all scheduled court appearances.

dramatic increase in failures to appear and crimes committed while free on bail.<sup>2</sup>

Even the process by which these various groups analyze their data (or frequently outdated data) as well as the conclusions they form are subject to further analysis.<sup>3</sup> The Bureau of Justice Statistics even criticizes its own source of statistical information at times.<sup>4</sup> Risk assessment tools are also not without their problems.<sup>5</sup> There is evidence of inherent racial bias in some risk assessment instruments.<sup>6</sup> Ironically, one of the articles critical of risk assessment tools listed in footnote 6 below, notes that they are funded by the same foundation which created the PSA; the Laura and John Arnold Foundation.

As noted in the Mamalian article, many of the objections to money bail are based on bail schedules which we don't use except for certain quasi-criminal traffic offenses and several others.<sup>7</sup>

There are other opinions on this issue and we have not been provided with any of them.<sup>8</sup>

More importantly, no distinction is made between states which follow rigid bail schedules, states which require the posting of a full cash bond, or those requiring only a percentage thereof. In addition, little is said about the dramatically increased failure to appear rate

---

<sup>2</sup> First Judicial District Criminal Courts Commonwealth of Pennsylvania, (July 2011) *The Reform Initiative*, Interim Report; General Assembly of the Commonwealth of Pennsylvania, Joint State Government Commission, *Report of the Advisory Committee on the Criminal Justice System in Philadelphia (January 2013)*

Morris, Robert G., Ph.D., *Pretrial Release Mechanisms in Dallas County, Texas, Differences in Failure to Appear (FTA), Recidivism/Pretrial Misconduct, and Associated Costs of FTA* Dallas County Criminal Justice Advisory Board (January 2013)

<sup>3</sup> Ebbesen & Konecni, *Criticisms of the Criminal Justice System: A decision Making Analysis*; Behavioral Sciences and the Law, Vol. 3, No. 2:177-194 (1985) ;

<sup>4</sup> Data Advisory (March 2010) *State Court Processing Statistics Data Limitations*, Bureau of Justice Statistics

<sup>5</sup> Mamalian, Cynthia A. PhD, *State of the Science of Pretrial Risk Assessment*, Bureau of Justice Assistance (March 2011). BJA is also associated with PJI.; Lowencamp, Lemke, and Latessa, *The Development and Validation of a Pretrial Screening Tool*, 2 Federal Probation, Vol. 72, No. 3 (December 2008)

Starr, Sonja B. *Evidence-Based Sentencing and the Scientific Rationalization of Discrimination*, Michigan Law, forthcoming , Stanford L. Rev. Vol. 66 (2014)

<sup>6</sup> Starr, Sonja B. *supra*; Angwin, Julia, Larson, Jeff, Mattu Suya, and Kirchner, Lauren, *Machine Bias: There's Software Used Across the Country to Predict Future Criminals. And it's Biased Against Blacks.*, ProPublica, May 23, 2016

<sup>7</sup> S. Ct. Rules 526-528

<sup>8</sup> Bartlett, Dr. Dennis A. *The War on Public Safety, A Critical Analysis of the Justice Policy Institute's Proposals for Bail Reform*; Eric Helland and Alexander Tabarrok, "The Fugitive: Evidence on Public versus Private Law Enforcement from Bail Jumping" Journal of Law and Economics 47: 93-122 (2004),

experienced in jurisdictions using unsecured bonds.<sup>9</sup> Why? Because in some instances they don't categorize them as failures to appear. Instead, they increased the use of trials in absentia which resulted in meaningless convictions.<sup>10</sup>

We were told change is on the way; there have been 11 challenges to the cash bail system and 9 have been successful. Did anyone get the citations of those cases? Did you read the highly touted *Salerno*<sup>11</sup> decision only to find the holding of the case was not that cash bail was bad, but that the Bail Reform Act of 1984 was not unconstitutional and the court could detain an arrestee pending trial upon a showing of clear and convincing evidence that no release conditions would ensure the safety of the community? The quote we were given from Justice Rehnquist is dicta; obiter dicta at best. The court found holding a defendant without bond under those circumstances did not violate substantive due process, procedural due process or the Eighth Amendment. Talk about taking something out of context!

The presentation we got included a canned PowerPoint you can find on the PJI website; almost verbatim.

Let's take a closer look at those 11 cases (or ones similar to them since we were never given citations) which we were told have found money bail to be unconstitutional: (1) *Varden et al. v. City of Clanton*, Case No. 2:15-cv-34-MHT-WC, (U.S. Dist. Ct. M.D. Alabama, N.D. 2015) is a "fixed bail" or bail schedule case<sup>12</sup>. In its ruling issued September 14, 2015, the U.S. District Court said:

"The use of a secured bail schedule to detain a person after arrest, without a hearing on the merits that meets the requirements of

---

<sup>9</sup> Cohen, Thomas H., *Commercial Surety Bail and the Problem of Missed Court Appearances and Pretrial Detention*, (June 2, 2008). 3rd Annual Conference on Empirical Legal Studies Papers, U.S. Bureau of Justice Statistics; Morris, Robert G., PhD, *Pretrial Release Mechanisms in Dallas County, Texas: Differences in Failure to Appear (FTA), Recidivism/Pretrial Misconduct, and Associated Costs of FTA*, University of Texas, January, 2013

<sup>10</sup> *The Reform Initiative*, fn. 2, pp.34-35

<sup>11</sup> *United States v. Salerno*, 481 U.S. 739 107 S Ct. 2095, 95 L.Ed2d 697 (1987)

<sup>12</sup> What the PJI PowerPoint cited was not the holding, but the DOJ's position as set forth in their Statement of Interest.

the Fourteenth Amendment regarding the person's indigence and the sufficiency of the bail setting, is unconstitutional as applied to the indigent. Without such a hearing, no person may, consistent with the Fourteenth Amendment, continue to be held in custody after an arrest because the person is too poor to deposit a monetary sum set by a bail schedule..." See *Pugh v. Rainwater*, 572 F.2d 1053 (5th Cir. 1978); *Bearden v. Georgia*, 461 U.S. 660 (1983); and *State v. Blake*, 642 So. 2d 959 (Ala. 1994).

There is nothing about the decision which holds cash bail to be unconstitutional. It merely says bail schedules without some form of bond hearing are not constitutional. Don't we already provide bond hearings? Don't we already address the issue of indigency, flight risk, prior criminal offenses, prior failures to appear, and all the other factors set forth in 725 ILCS 5/110-5, at least? This is not the harbinger of the end of money bail the talking heads for the Pretrial Justice Institute purported it to be, so....., it must be the next case.

(2) *Walker et al. v. City of Calhoun, GA*, 2016 WL 361612 (N.D. Ga. Jan. 28, 2016) is also a "fixed bail" or bail schedule case. There, the district court held: "No bail or bond scheme that mandates payment of pre-fixed amounts for different offenses to obtain pretrial release, without any consideration of indigency or other factors, violates the Equal Protection Clause."

Perhaps it sounds so similar to *Varden* because the same group, the Equal Justice Under Law Foundation, filed this and the other 10 cases referenced in the Starved Rock presentation. Although undoubtedly driven by their altruistic and commendable desire to provide justice for all, let's not forget in each case in federal court they seek and are entitled to attorneys fees and costs to be paid by the

municipality, if successful.<sup>13</sup> Their agenda is plainly laid out in “Ending the American Money Bail System”.<sup>14</sup>

In that article you will once again find, quoted out of context, the comment we saw from JusticeRehnquist, which they contend to be a “commonly held value long ago proclaimed by the Supreme Court”. Although true as far as it goes, it does not mean that money bail is bad, nor did the Supreme Court intend it to say so.

Not to be outdone in the “quoted out of context” category, the PJI presentation cited *Stack v. Boyle*, 342 U.S. 1 (1951) for what they said were the factors to be considered in determining bail. The factors he lists “...must be based on standards relevant to assure appearance” and “must be individualized to each defendant” are from then F.R. Cr. Pro. 46(c).<sup>15</sup> What he didn’t tell you is that the Supreme Court in *Stack* also said:

“Like the ancient practice of securing the oaths of responsible persons to stand as sureties for the accused, the modern practice of requiring a bail bond or the deposit of a sum of money subject to forfeiture serves as additional assurance of the presence of the accused. ” 342 U.S. at 5, 72 S.Ct. at 3

How do I know this? Because I read the case. Pulling something out of context to serve as justification for a position is not the most persuasive of authority. *Stack v. Boyle* is a 1951 case where the government charged 12 members of the Communist Party with conspiring to teach or advocate the overthrow of the U.S. government. The court initially set varying amounts of bail from \$2500 to \$100,000.

---

<sup>13</sup> 42 U.S.C. Sec. 1988.

<sup>14</sup> <http://equaljusticeunderlaw.org/wp/current-cases/ending-the-american-money-bail-system/>

<sup>15</sup> Rule 46 (c). "AMOUNT. If the defendant is admitted to bail, the amount thereof shall be such as in the judgment of the commissioner or court or judge or justice will insure the presence of the defendant, having regard to the nature and circumstances of the offense charged, the weight of the evidence against him, the financial ability of the defendant to give bail and the character of the defendant." Sounds like the factors we currently consider under the bail statute.

After one defendant sought a reduction of bail, his bond was fixed at \$50,000 and ultimately the court set bail for all defendants at \$50,000 .

All 12 sought a reduction of their bonds and submitted information regarding their family relationships, financial resources, criminal histories, health, and other information. The government's only response was to submit certified records indicating 4 other people, bearing no relationship to the defendants in this case, who had been convicted of the same thing, failed to appear in their cases.

All *Stack* tells us is to continue with what we do currently at a bond hearing, as required by statute.

Former Solicitor General Paul Clements filed an Amicus Brief with the U.S. Court of Appeal, 11<sup>th</sup> Circuit in *Walker v. Calhoun* which sets out a very cogent argument that the current monetary bail system is constitutional. Admittedly, he has done so on behalf of commercial sureties (bail bondsmen) but that is not our issue. Illinois, along with Kentucky, Oregon and Wisconsin prohibit bail bondsmen altogether.<sup>16</sup> Our issue relates to the purported unconstitutional practice of requiring the posting of bail to ensure appearance and compliance. You should read the brief before traveling too much further down this road of “money bad, no money good”. So..., this isn't the case finding cash bonds unconstitutional, so it must be the next one.

(3) *Pierce v. City of Velda City*, Case No. 4:15-cv-00570-HEA (D.Ct. E.D. Mo.) No, this is also a case involving a fixed bail schedule for municipal ordinance violations. In Velda, people arrested for municipal ordinance violations were required to post bonds between \$150 and \$350 depending on the specific offense charged. If they were unable to do so, they could remain in jail for up to three days, after which time they were normally released for free.<sup>17</sup> Again, this is a situation dissimilar to Illinois, and does not address the issue of cash bonds in general. It relates only to pre-set bond schedules which do not include

---

<sup>16</sup> Which apparently means we have 46 out of 50 states run by Neanderthals who have no concern for the poor within their borders.

<sup>17</sup> Class Action Complaint in *Pierce v. City of Velda City*, filed 4-2-15.

consideration of any factors other than the offense charged. So, once again, this is not the case proving the downfall of money bonds is imminent. Ok, it must be the next one.

(4) *Cooper v. City of Dothan*, Case No. 1:15-CV-425-WKW (D.Ct. M.D. AL, June 18, 2015). Same situation as in *Pierce, Walker and Varden* above. Not here either, so how about ...

(5) *Thompson v. Moss Point, Mississippi*, Case No. 1:15cv182LG-RHW (D. Ct. S.D. MI, Nov. 12, 2015) Same thing, fixed bail schedules again.

I could go on, but you will find that the 9 cases in which they said they had been successful all involve this traveling road show of litigation where the Foundation files in federal court against municipalities that have fixed bail schedules, generally gets a consent decree or preliminary injunction, and moves on. None of them have found requiring a defendant to post a cash bond after a judicial hearing where all factors, including their ability to pay, are taken into consideration, is unconstitutional.

What about New Mexico? Remember the repeated references to the case from New Mexico? The case is *State of New Mexico v. Brown*, No. 34,531 (filed November 6, 2014). Authored by Chief Justice Charles Daniels of the New Mexico Supreme Court, an unapologetic proponent of bail reform, there is nothing about that case which heralds the end of cash bail.

Justice Daniels has made his position clear. While discussing the proposed constitutional amendment going to the voters in New Mexico, he told a reporter: “There is nothing I’ve done or will do on this court that is going to be a more important improvement of justice than getting this amendment passed.”<sup>18</sup>

*Brown* is a case where a defendant who turned 19 two days before his arrest, had been in custody for more than 2 years on a \$250,000 bond for first degree felony murder. A special needs student throughout

---

<sup>18</sup> Tomlin, David, *NM Chief Justice Daniels backs bail reform amendment*, Ruidoso News, N.M (Wed. July 20, 2016)



school, he was unable to live independently due to both developmental and intellectual disabilities. He had a second-grade comprehension level in math, writing and reading.

The New Mexico Constitution requires nearly all offenses except capital murder to be subject to bail, but they also have a pretrial services process which looks at all the same factors we do. The facts of this case are significant. Although the State did not contest the defendant's evidence, and although the trial court found the defense had adequately shown the defendant was not a flight risk or danger to others, and the pretrial services program could fashion appropriate conditions of release, he felt the \$250,000 bond was necessary, based solely on "the nature and seriousness of the alleged offense."

After several more months, the defendant filed a second motion seeking release under the supervision of the pretrial services program with appropriate nonmonetary release conditions. They presented the same evidence; again uncontested by the State. The probation department's pretrial services director even testified in support of defendant's motion. The court again concluded the seriousness of the charges alone justified the \$250,000 bond.

Considering the record in that case, and the factors which we are supposed to evaluate, in light of the court's findings it is not difficult to understand how the bond decision got reversed. Having concluded the defendant did not appear to be a danger to the public, or significant flight risk, the court relied only on the nature and seriousness of the offense. It did so even after concluding there were a substantial number of nonmonetary conditions it could attach to the Defendants release which were likely to assure compliance.

The opinion does provide some degree of historical background to the bail reform movement, however, and makes for interesting reading. Does it herald a complete overhaul of the cash bail system? No, it simply pointed out how the trial court made findings inconsistent with its own ruling, and found there was no basis for requiring the high cash bond in that case. Here, there probably would have been a motion to

modify the bond, which the court would be justified in reducing to an amount which would not be considered excessive. Our Constitution and statutes require us to do that now. In New Mexico it apparently was either a high bond or no bond. The case does not prove cash bonds bad; it's just an example of bad facts making for a bad decision.

We were told, as I recall, the enlightened world of “no cash” bonds is coming, that it is inevitable, and we will have to make drastic changes to our State Constitution, statutes, and Supreme Court rules in order to address this glaring inequity in the law. None of which is necessarily true if it's based on the cases they referenced and we have been given only one, highly political, clearly ideologically driven side of the issue.

Don't feel like finding and reading the cases? Ok then, let's look at some of the other assertions they made in their presentation. They started with a false premise in the slide captioned: “Current Pretrial Justice Perceptions”. The supposed perceptions held by the judiciary were: (1) crime has a price, (2) Bond seen as payment for crime, (3) Compliance is financially rewarded, (4) Bond works pretty well, (5) Jails are used to protect and punish, (6) Intuition is usually right.

Whose perceptions? Do those sound like yours or mine as judges? (1) Yes, crime has a price, but not as we relate it to bail bonds. According to one study, in one year, 23 million criminal offenses committed cost approximately \$15 billion in economic loss to victims and \$179 billion in government expenditure for police protection, judicial and legal activities, and corrections.<sup>19</sup>

(2) The only way we, as judges look at bail bonds as payment for crime is as a source of funds for restitution (an appropriate use of a defendant's bond, if you ask me) or for user –based fees and costs assessed against defendants at the completion of a case which results in a conviction.<sup>20</sup> It also has its basis in common law where the amount of

---

<sup>19</sup> McCollister, French & Fang; *The Cost of Crime to Society: New Crime-Specific Estimates for Policy and Program Evaluation*, National Institute of Health, Drug Alcohol Dependence, (April 1, 2010)

<sup>20</sup> I fully recognize the Illinois legislature has attached an inordinate number of fees and costs to bond, but that is being addressed elsewhere.

money required as surety was equal to the amount likely to be paid the victim in compensation for the crime charged. <sup>21</sup>

(3) How can compliance be “financially rewarding”? It was their own money (or family member’s money) to begin with. More importantly, it’s not a matter of being rewarded it is very simply a matter of bond as surety for compliance. It was never intended as a “reward”, it was intended to force appearance and compliance. Two things it does rather well.

(4) Cash bonds **do** work pretty well. A study was published in the Journal of Law and Economics in 2004, entitled *The Fugitive: Evidence on Public Versus Private Law Enforcement From Bail Jumping*. The researchers’ figures were taken from the State Court Processing Statistics program of the same Bureau of Justice Statistics that PJI is so willing to use. Contrary to Mr. Murray’s assertions, the authors said:

“In light of the persistent criticism that surety bail encourages failure to appear, it is perhaps surprising that the data consistently indicate that defendants released via surety bond have lower FTA rates than defendants released under other methods.”<sup>22</sup>

Based upon state court processing statistics compiled between 1990 and 2004, Cohen & Reeves found:

“Compared to release on recognizance, defendants on financial release were more likely to make all scheduled court appearances. Defendants released on an unsecured bond or as part of an emergency release were most likely to

---

<sup>21</sup> Carbone, June, *Seeing Through the Emperor’s New Clothes: Rediscovery of Basic Principles in the Administration of Bail*, 34 Syracuse L. Rev. 520 (1983)

<sup>22</sup> Helland and Tabarrok, *The Fugitive: Evidence On Public Versus Private Law Enforcement From Bail Jumping*, Journal of Law and Economics, the University of Chicago (2004), 93; Morris, Robert G., *Pretrial Release Mechanisms in Dallas County, Texas*, supra fn. 8

have a bench warrant issued because they failed to appear in court.”<sup>23</sup>

This was the same conclusion reached six years later in the Dallas County Research Report from 2013 cited in footnotes 2 and 9 above.

(5) The next point in the slide was “jails are used to protect and punish”. Well, that may be true, but they have also historically been used to hold those who are charged with offenses, pending and subsequent to some form of probable cause hearing in felonies, and based upon the sworn charge of a police officer or prosecutor, depending on the jurisdiction. These are not people whose names were picked out of a phone book and randomly arrested. This broad statement completely ignores the recognized probable cause and due process requirements under which law enforcement and the judiciary operate daily in this country. It’s as if suddenly, we have started incarcerating people at random, for no reason, and without any basis to do so. Only the most cynical ideologue would believe that.

Lastly, (6) they tell us we operate under the current perception that “intuition is usually right”. Intuition? Is that what you and I do every day when we handle arraignments? I thought we consider the nature of the charge, the prior criminal history of the defendant, current economic status or work history, ties to the community, history of failures to appear, other pending charges, bonds, or parole upon which the defendant is placed, any mental or physical circumstances which might be relevant, substance abuse history and status, and in smaller jurisdictions like mine, our knowledge of the defendant from past court experience. That’s not intuition; that is a careful evaluation of all the various factors set forth in the bond statute and then some.

Their next slide captioned “Current Bail Decision – Making” is obviously for their “bail schedule” presentations and they must have

---

<sup>23</sup> Cohen and Reeves, *Pretrial Release of Felony Defendants in State Courts*, Bureau of Justice Statistics, Special Report (Nov. 2007)

forgotten to take it out. It relates only to those jurisdictions which use static bail schedules which, as we know, is not the situation before us.

They included a quote from an article with no citation to authority, studies, research or data, entitled “Developing a National Model for Pretrial Risk Assessment” by the Laura and John Arnold Foundation. It said that “...defendants who are high – risk and/or violent are often released ... nearly half of the highest risk defendants were released pending trial.” When I looked up the article, I found it has no citations to the research, no footnotes directing us to the statistics or studies. I can give you lots of quotes from blogs, articles or other sources with no verifying statistical research too; but I would assume you would not give it credence, nor would you be likely to put it into a PowerPoint presentation just because I said it.

Further, who defined “high risk” and what factors were considered? As many of the articles regarding risk assessment instruments and data collection will tell you, the lack of uniformity in definitions plays a large part in differing statistical results. The various risk assessment tools have different criteria and different numbers and categories of criteria they measure. That’s what also struck me about the presentation. When he said, “the data is what the data is”, I knew that was not true. Any basic statistics class will tell you that using or excluding various factors or measuring only certain information and not others will give you different results. Any good statistician can make data say whatever they want it to say. Give me the right data and I will show you there is a correlation between eating processed cheese and increased crime rates.

This is my point. There may be volumes of research, data and statistics justifying the claims made. Direct us to it and let us perform our own evaluations before suggesting such sweeping changes to a system which has functioned for so long. In addition, let us see the other side; the research and data which come to the conclusion that money bail is an efficient way to seek to secure appearance and compliance and that the economic factors are considered more often than not.

I am just one judge, with no clerks or interns, juggling the duties of Chief, Presiding and handling my own Civil call; but with only a little research and investigation, I was able to see “the emperor is wearing no clothes”. You should do your own independent research and investigation before you decide.

My complaint is with the fact that this was presented to us as gospel, with no consideration for alternative perspectives, and was intended to convince us to make a substantive change in the judicial process that is not necessarily needed or even warranted by the evidence. This is not how change in something as significant and far-reaching as our judicial system should come, in my humble opinion.

As judges, we are familiar with listening to both sides of an issue, weighing the evidence, and then making as informed and considered a decision as we can. I object to both the substance and manner in which the presentation was given and I think it is incumbent upon us to engage in more in-depth research on the issue before we jump on anyone’s bandwagon.

It is unfortunate although understandable that a significant portion of the material opposing no money bail comes from the commercial surety industry because that will undoubtedly be the basis for any attack on a contrary position. “They are only out to save their jobs” is an easy way of discrediting the information without reading the research or studies. For those of you who disagree with me, I understand it is no different than “they are only out to promote their socially progressive agenda”; the difference being, I’m asking you to investigate both sides, not just one. Look at the actual research and the cases and consider the fact that the system we use has been in operation for hundreds of years, in over 99% of the jurisdictions, with fairly successful results. Is it perfect, no; but what system run by humans ever is? Does our Supreme Court require perfection? No, thankfully it does not. Does it even make logical sense that fewer people will fail to appear, commit more crimes, or comply with bond conditions if we just don’t make them post bond? Did it make any sense to you at

all when we heard that one of the primary reasons people don't show up for court is because we don't call them the day before? There are many more sources of information and statistics out there; you just have to look for them.

It has not been my intention to insult or denigrate the work done by AOIC, the Second District, or the local organizers of the seminar in Starved Rock. My focus is on the traveling band of progressives who are purporting to tell us there is no alternative but to accept their theories and begin the process of changing our state constitution, Supreme Court rules and statutes to effectuate a change which is inevitable when, in reality, it is neither inevitable, nor perhaps even necessary.

Respectfully submitted:

Craig DeArmond

Chief Judge, Fifth Judicial Circuit

7 N. Vermilion

Danville, IL 61832

217-554-7835 (office)

217-474-4562 (cell)

[dearmond@vercounty.org](mailto:dearmond@vercounty.org)

[chdearmond@comcast.net](mailto:chdearmond@comcast.net)