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THE BATTLE FOR PHILLY'S BAIL: Who Gets The Money?

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BY TONY WEST/ Philadelphia's bail system is a mess, most observers say. Reforms of some sort are inevitable, now the Clerk of Quarter Sessions Office, which used to process bail records, has been eliminated. At a hearing Tuesday at the Bar Association, leaders of the different branches of public-safety professions butted heads as they struggled to move these reforms toward often-opposed goals.

On one bottom line, however, all public-sector officials — the City Controller, 1st Judicial Dist., District Attorney's Office and Public Defender's Office — banded together to fight off the reintroduction of private bail bondsmen to city courts. With equal force, bail bondsmen argued they can handle the job better than government has.

Bail is money. And it's a fact as long as bail is handled internally by the court system, its revenues return to the courts. That matters to President Judge Pam Dembe, who testified her pre-trial services are funded by bail money. At a time when court budgets are under extraordinary pressure, nobody wants to surrender control of a revenue source that, properly managed, could bring in new millions — money that could fund innovative alternative programs to empty out overcrowded prisons in better ways.

Jodi Lobel, who heads the Charging Unit in the DA's Office, even asserted going after back bail owed by skips, which has been estimated to run as high as \$1 billion, should be the top priority of the Senate Judiciary Committee, which is investigating Philadelphia's bail system.

But spokespersons for the bonding industry retorted government bondsmen have no economic incentive to administer bail so as to ensure defendants appear in court. In fact, under the city's current system, the more no-shows, the more defaulted deposits (10% of the official bail bond) are retained as income by the courts. When defendants show up in court, these deposits are refunded. To a criminal, a forfeited deposit is just a cost of doing business.

Bail-jumping is a complex problem and public officials cited many other concerns about private bondsmen. They tend to cherry-pick, said Judge Dembe, leaving tougher cases to rot in jail. Controller Alan Butkovitz noted private bail bondsmen were banned in Philadelphia in the 1970s after allegations of corruption. Stuart Schuman of the Defender Association of Philadelphia said, "Private bondsmen tend to use a lot of petty reasons for revoking bail. We shouldn't be privatizing what is a public function."

A troop of bail bondsmen disputed these contentions. "Government has no motivation to run bail like a business," said Stanley Orlin, a veteran of Philadelphia's earlier private bail-bond industry. "Several bondsmen testified their companies keep skips under 1% — a far cry from Philadelphia's 7% no-show rate. They study applicants' credit, monitor their families closely, issue electronic restraints and provide pre-trial management — all to avoid losing their bonds, which are 10 times larger than what defendants currently risk.

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Nicholas Wachinski, an attorney who works with many bail-bond companies, argued reputable bonding agents are surety-backed. They are regulated by the Dept. of Insurance and subject to public accounting. "There is a role for both public and private bail bondsmen, he said.

State Sen. Mike Stack was inclined to agree. "We heard compelling testimony from bail proponents in both the public and private sector. It seems like there are advantages to both systems. Perhaps we need to look at a hybrid bail system that uses the best features of both systems. Of course, it would require significant review and input from criminal justice stakeholders, the Judiciary Committee, and many others. I am interested to see if the Pennsylvania Supreme Court Panel and the Joint State Government Commission Task Force add this system to their recommendations."

Judiciary Chairman State Sen. Stewart Greenleaf said the hearing was productive. "Quite a bit of information was presented. That's what we wanted to have: people's opinions, their reasoning and the facts."

Greenleaf said the Joint State Government Commission will be asked to study whether statewide bail guidelines are needed, as one way to help Philadelphia out of its hole.

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Private surety bail outperforms pretrial service agencies everytime. If you want the facts on pretrial, visit <http://www.pretrialtruth.com> and download the free whitepaper. Bail is not and should never be seen as a revenue source for the courts. That is not what it is intended to be. It is an insurance policy that the bail agent stands behind and promises to deliver the defendant back to court. There is a place for pretrial services and private bail surety to exist together. Pretrial should focus on special needs and indigents, while private bail focuses on getting people to appear for their day in court.

Bail Bonds
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So far, everywhere that Pretrial services has set up programs for anyone other than the indigent and special services has failed. Oregon is even considering bringing back the commercial bail bond system because of this. See this [Video](#) that say's it all.

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