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Surveilling Sureties: How Privately Mediated Monetary Sanctions Enroll and Responsibilize Families

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ABSTRACT

In the neoliberal age, ordinary people are increasingly responsible for taking up crime control and surveillance, what we might consider traditional state functions. This article situates commercial bail as a case of responsibilization and identifies monetary sanctions as a mechanism through which private companies offload pretrial risk management onto families. Drawing on ethnographic and interview data, I present this process via four stages. First, agents use cosigned bail bonds to selectively enroll people they perceive as suitable sureties and surveillants. Second, this monetary sanction is deployed with carceral and financial threats to encourage cosigners to embody the roles. Third, as surveillants, family members engage in invisible emotional labor to cope with or rationalize their deployment as an arm of the state. Last, through their involvement as instruments of surveillance, family members inadvertently become subjects of surveillance and carceral control. From enrollment to subjugation, this process of responsibilization is an uneven one as women, particularly women of color, are disproportionately burdened with risk management and any resulting repercussions.

Key words: commercial bail; family; monetary sanctions; responsibilization; surveillance.

The state has long relied on private civilians to surveil the behavior of their system-involved counterparts (Foucault 1977; Garland 2001). In the 21st century, this offloading of responsibility is legitimized under the banner of neoliberal privatization (Monahan 2010) or risk governance (Beck 1992) and augmented by rapidly changing economic and technological conditions (Brayne 2021). At the same time, private companies aid in risk management across the criminal legal system (Garland 2001), engaging in routine surveillance and collecting monetary sanctions from those under state control (Harris, Tyler, and Obara 2019; Page and Soss 2021). In this article, I consider whether private companies go beyond doing surveillance work to growing the ranks of “surveillance deputies” (Brayne, Lageson, and Levy 2023) or ordinary citizens who use their labor and economic resources to surveil on behalf of the state. Further, I explore the question of whether monetary sanctions, through potential or actual financial extraction, are a mechanism for offloading responsibility and enrolling individuals as third-party social control agents.

To shed light on how surveillance is delegated to the family and friends of system-involved people, I focus on the pretrial phase, wherein the state is interested in managing flight risk or getting people to

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attend court through case completion. In some jurisdictions, this task is entrusted to commercial bail agencies, private entities that bail defendants out of jail and vouch for their future court appearance in exchange for a fee and cosigned bond agreement. If a court date is missed, the vouching agency can be liable for the entire bail amount, although data suggest this rarely occurs in practice (Freeland 2023). Commercial bail is lauded as an effective pretrial release mechanism as some studies document a relatively high court attendance rate among defendants (e.g., Clipper, Morris, and Russell-Kaplan 2017; Cohen and Reaves 2007). However, the practice is also condemned for operating as a monetary sanction (Harris 2016) that disproportionately extracts resources from low-income communities of color (Page, Piehowski, and Soss 2019; Scott-Hayward and Fradella 2019).

Drawing on ethnographic observation within a Harris County bail agency and in-depth interviews with cosigners, the current study demonstrates that the linchpin to commercial bail's risk mitigation strategy is using cosigned bond agreements to enroll family members as third-party social control agents. This denotes that beyond the traditional role of financial surety—people who guarantee another's debt will be paid—bail bond cosigners are also converted into surveillance deputies. I articulate this process of responsabilization and the resulting consequences in four stages.

First, bail agents, the private industries' frontline workers, engage in selective enrollment in which they offload responsibility for risk management onto vetted individuals. During selection, they emulate both market lenders and judges and draw on economic and social indicators to predict whether people are reliable sureties and surveillants. At the same time, family members also make assessments about risk and suitability, which jointly influence who is enrolled from within the network. Research shows that the financialization of criminal legal contact and punishment often falls disproportionately on people of color, and, in particular, women of color (Neal 2012; Page et al. 2019). This study emphasizes that the racism, sexism, and classism embedded in markers used for risk assessment (Benjamin 2019; Brayne 2021) perpetuate inequality further as those already targeted for predation must sometimes do more, pay more, or wait longer to be deemed suitable for enrollment and, ironically, further extraction.

Second, bail agents use the threat of future debt, failed investment, or jail time to encourage cosigners to actively embody the roles of financial surety and surveillance deputy. These threats, evoking financial and carceral punishment, deepen cosigners' felt responsibility and facilitate interest convergence between them, bail agents, and the state. If families surveil their system-involved kin and get them to appear in court, they can help the state administer justice, help bail agencies profit, and help themselves support their loved ones unscathed by further loss of economic resources.

Third, as surveillants, family members are in the fraught position of laboring as an arm of the state while doing invisible emotional labor to cope with or rationalize their participation. Last, through their involvement as instruments of surveillance, family members inadvertently become subjects of surveillance and carceral control. Uneven in reach and depth of impact, women disproportionately bear this consequence, with some Black and Latina respondents emphasizing their felt criminalization. Simultaneously occupying the role of surety means that even in the absence of a failed bond agreement, women also experience financial, procedural, and emotional stress.

Through the practice of commercial bail, the state makes pretrial flight risk a problem to be managed by families, and in particular, women relatives. These private companies then use monetary sanctions, such as cosigned bail bonds, to enroll responsabilized subjects who manage risk through surveillance and unevenly endure repercussions.

RESPONSIBILIZATION AND ENROLLMENT

In the neoliberal age, individuals are increasingly responsabilized (e.g., Shamir 2008). One interpretation is that the state offloads the responsibility of managing risk onto everyday people. Monahan (2010) discusses this phenomenon in terms of insecurity and notes that while there are genuine dangers that populations are vulnerable to, there are also socially constructed insecurities that we come to understand as more or less important and as problems for the state to solve or the responsibilities of individuals. An ideal citizen emerges through this process of responsabilization who, in many ways, does not need the state (Rose 1999). Instead, "this subject anticipates risk and minimizes it, regulates

exposure to potentially threatening others through systems of fortification... voluntarily sacrifices privacy and civil liberties... and fully supports punitive state policies” (Monahan 2010:2).

Crime represents a prominent source of both real and constructed risk that has spurred various responses, from zero-tolerance laws to the categorization and group-level management of people to the deployment of surveillance technologies (Brayne 2021; Feeley and Simon 1992; Monahan 2010). Garland (2001) observes that such responses to handling crime prevention and control have been offloaded to non-governmental entities in the private sector. As evidence of this responsabilization, he points to the proliferation of public-private partnerships created to address local crime problems such as community policing and neighborhood watch programs, as well as the growth of private security and privately owned crime prevention hardware (Garland 2001).

Responsibilization is also reflected in penal discussions of financialization (e.g., Pattillo and Kirk 2021) as the public system of justice now reflects a continuum of “cost points,” or moments wherein private entities charge individuals for the management of their bodies or property (Harris et al. 2019). Related, neoliberal articulations of the carceral domain note that the contraction of state services is partly possible because they responsabilize private actors to carry out the work (Page and Scott-Hayward 2022; Page and Soss 2017). For instance, Miller and Alexander (2015) find that post-conviction, responsibility for rehabilitating and managing former inmates is offloaded onto private, community-based vendors and, in their absence, onto family members, friends, and other former prisoners. Brayne and colleagues (2023) offer an additional example of responsabilization through their concept of surveillance deputization. Bolstered by modern-day technology, this process entails ordinary people using their labor and economic resources to surveil on behalf of the state, an action that contributes to carceral functioning (Brayne et al. 2023).

The current study draws from these varied works to show how the criminal legal system, through a partnership with private bail companies, makes bail a problem for families. This responsabilization is achieved using cosigned loans to enroll families as third-party social control agents. I then demonstrate that involvement as an instrument of carceral control and surveillance is also a pathway to becoming a subject of carceral control and surveillance.¹ Prior work on responsabilization, predominantly where surveillance is concerned, has raised warning flags about its reinforcement of social inequality (Brayne 2021; Lyon 2002; Monahan 2010). I build on this work by showing unequal chances of being surveilled *and* facing coercion to act as a surveillant. Given that women are more likely to provide support to system-involved relatives (Clayton et al. 2018; deVunono-Powell et al. 2015), and criminal legal contact is disproportionately concentrated among Black and Latino men (Pettit and Gutierrez 2018), it follows that women of color face a high likelihood of being responsabilized as surveillants.

COLLATERAL CONSEQUENCES AND INEQUALITY: THE ROLE OF MONETARY SANCTIONS

Low-income people of color are overrepresented at every stage in the criminal justice system, even when controlling for alleged criminal behavior (Crutchfield, Fernandes, and Martinez 2010). As a result, they shoulder significantly more criminal justice debt (Campos-Bui et al. 2017; Neal 2012), including monetary sanctions, or fines and fees that juveniles and adults entangled within legal systems must pay to be completely free (Harris 2016; Pattillo and Kirk 2021).

Monetary sanctions are represented in ways that abstract the legal process from its highly racialized and classed context. Crime is quantified through the logic of exchange value (O'Malley 2009), with money becoming the medium to express how much someone should be punished (Henricks 2021). Erased from the content of monetary punishment are the workings of a racialized and classed society in which who gets policed, what they are policed for, who endures punishment, and at what level of severity are all stratified and highly predictable outcomes (Harris 2016).

¹ A similar phenomenon is documented in a study centering the co-residents of those on electronic monitoring (Vanhaelemeesch and Beken 2014).

Bail is an underexplored monetary sanction (Boches et al. 2022) defined by the attachment of money to a criminal charge that, when non-zero, must be paid via cash, property, or a surety agreement before pretrial release from jail is granted. In first appearance court, judges consider factors such as a defendant's criminal history, the current charge severity, and their record of court attendance when deciding if bail will be granted and at what amount (Koepeke and Robinson 2018). They also consider extralegal factors such as a defendant's age, gainful employment, and involvement in school, as well as their housing situation and status as a parent or romantic partner. These legal and extralegal factors presumably correlate to a high or low probability of future offending and appearance in court (Koepeke and Robinson 2018). Similar to other forms of monetary punishment, the markers preceding quantification reflect racism and classism, among other "isms," resulting in biased bail decisions (Arnold et al. 2017).

Commercial bail agents weigh many of these same markers again during decisions to extend financial assistance to defendants granted bail, usually at a minimum fee of 10 percent of the total amount. Beyond this service fee, agents require defendants to have at least one cosigner. This requirement extends the scope of evaluation to those who are not facing pending charges and are under no legal obligation to attend court. They are, however, assessed according to their perceived capacity to facilitate another's appearance in court and their determined suitability as financial sureties. Extending Page and colleagues' 2019 study, I find that both assessments rely on racialized, gendered, and classed heuristics. Rather than make invisible the social context from which they emerge, these heuristics are used to justify the creation of a class of responsabilized subjects, disproportionately women of color, who then engage in surveillance on behalf of the state.

Monetary sanctions also redistribute the operational cost of justice through earmarks onto those processed through the system (Henricks 2021). However, rather than being considered financiers who make state capacity possible, legal debtors are labeled as criminals deserving of extraction (Friedman and Pattillo 2019) and positioned as fiscally responsible for an assortment of things, including their freedom, housing, and surveillance (e.g., Fernandes, Friedman, and Kirk 2022). Henricks (2021:1119) alerts us to the fact that while "reconfiguration of public finance may seem color-blind, as no one group is legally liable to pay sanctions that another group does not, it is highly racialized given how discrimination systemically shapes experiences at every step of the justice system."

Still, research shows us that despite the racially disproportionate levying of fines on system-involved individuals, it is their relatives, often women, who pay their financial debt (Lasine, Wool, and Henrichson 2017; Neal 2012). This includes costs such as commissary and telephone fees (deVuono-Powell et al. 2015), electronic monitoring (Vanhaelemeesch and Beken 2014), court fees and fines (Harris 2016), and bail (Clayton et al. 2018; Page et al. 2019). Commercial bail represents an extreme case as women, and particularly women of color, do not simply volunteer or feel social pressure to adopt the role of "financier" but instead are contractually obligated to do so. Beyond theoretically being deemed fiscally responsible, as defendants increasingly are (Fernandes et al. 2022), women of color are effectively made sureties to fulfill another's debt payment (Page et al. 2019). Even more, through this financial hook, they are enrolled as responsabilized subjects who augment the scope of state surveillance to manage pretrial flight risk.

A key contribution of this study is the identification of monetary sanctions as a mechanism 1) through which private companies, and by extension the state, responsabilize people, and 2) through which inequality and collateral consequences occur. While scholars have observed the latter effect of monetary sanctions in terms of garnished wages and tax refunds for unpaid fees, less familial spending on positive social goods, and weakened familial ties and reunification (Boches et al. 2022; Campos-Bui et al. 2017), I observe surveillance, both as an action and outcome, as an unevenly distributed collateral consequence of monetary sanctions.

DATA AND METHODS

This study is based on research examining the experience of commercial bail from multiple social vantage points. Data include six months of ethnographic work at a Harris County bail agency and 30 interviews with cosigners. While not featured in this article, the study began with 19 virtual interviews with Texas bail agents during the summer of 2020. Over the 2020–2021 academic year, I reviewed the contents of these interviews and, combined with additional research, narrowed my focus to Harris County.

There are several compelling reasons for focusing on Texas and Harris County specifically. First, Texas has one of the largest incarcerated populations and some of the most draconian bail policies – that is, their courts have long been criticized for unfairly keeping poor people locked up simply because they do not have the cash to post bail (OJS 2016). Second, Harris County has recently taken the national stage in bail reform, besides being a trendsetter among liberal counties within the state. Consequently, data collection here yielded a vivid snapshot of bond practices and consequences in the most recent iteration of bail reform. Last, Harris County houses Houston, the most racially/ethnically diverse large metropolitan area in the nation (Emerson et al. 2012), providing an array of agencies owned and operated by people of various races and ethnicities and diverse pools of defendants and cosigners.

Thus, in the summer of 2021, I began a six-month internship at a Harris County bail bond agency. I did not receive payment or participate in any bond decision-making. Instead, I shadowed agents and staff members—observed their actions, private conversations with each other, and phone calls and interactions with clients—asking questions all the while. Doing so offered a contextualized understanding of abstractly discussed topics and observed moments where discrepancies were revealed between discourse and practice or strategies were unveiled for transforming discourse into practice.

Moreover, following observation, I could probe agents' thought processes and witness their backstage sensemaking, where perceived social markers or performances were often linked to risk and coercive acts were justified. As other scholars have noted, ethnography is uniquely situated to explore how people operate in particular places and how their practices and decisions reflect and reinforce inequalities (Jerolmack and Khan 2014; Wacquant 2003).

To avoid disrupting the methodical flow of business and the tenuous process of building rapport with agents, I recruited cosigner interviewees through Craigslist, Facebook groups, Houston-based justice organizations, and participant referrals. The only restrictions to participation were 1) having used a commercial bond service for your own or someone else's release from jail; 2) having done so within the past 2–3 years (a timestamp for the most recent, local wave of bail reform); and 3) this having occurred within Harris County, although exceptions were made for surrounding counties. Totalling 30, interviews range from 30 minutes to two hours. All interviewees were compensated for their time (\$20) and allowed to recruit up to three participants for \$5 each. Participants reflect a diverse sample pool across gender, race, and economic standing.

With cosigners, I aimed to understand internal dimensions (Pugh 2013), one being how they experienced and gave meaning to their involvement in cosigned loan arrangements. These interviews were semi-structured so that I could follow the natural flow of the conversation and allow emerging insights to surface (Boyd and DeLuca 2017). I was also intentional about phrasing questions in a way that elicited stories. This technique produced highly descriptive responses about consequences I had not considered.

All field notes and interviews were transcribed and loaded into qualitative data analysis software (Atlas.ti). In the coding process, I used a grounded theory approach, best suited for inductive analysis based on comparative and iterative processes (Charmaz 2006). A discourse analysis of “risk” and “valuation” revealed that agents gave increased attention to cosigners over defendants regarding lending decisions. In light of this observed preference, relevant sections of field notes were then evaluated to make sense of the relationship between risk perception and mitigation as discussed versus in practice. The role of gender and its interaction with social relationship types (i.e., parent) became evident here.

Next, the same grounded and inductive approach was applied to the experiential stories generated from cosigner interviews. Through rounds of coding, two consequences emerged (i.e., an instrument of surveillance and exposure to surveillance) across respondents that were explicitly linked to the cosigner requirement. At this stage, I became cognizant of their differential rendering when explored through the lenses of gender and race. A final layer of coding was then conducted on both data streams to understand how and why risk was so influential in shaping the perspective and behavior of participants. Through this last effort, I could map out the transfer of responsibility for risk management from the state to bail agents to families and identify the importance of the cosigned loan arrangement and threats, later distinguished as financial and carceral.

FINDINGS

Selective Enrollment

Agent influence. Bail agents evaluate potential cosigners with an eye toward profiting and offloading risk management responsibility. To this end, they seek to enroll financial sureties that can double as third-party social control agents. During selection, agents emulate market lenders and draw on economic indicators to assess if people are reliable sureties that can safeguard profit. They predominantly consider employment information (i.e., job type and tenure) and, when applicable, homeownership. Women relatives are idealized sureties as they are viewed as having financial means and the obligations to care (Page et al. 2019), both of which signal a high likelihood of payment.

Agents conjointly imitate judges during bail decisions and seek out social indicators that presumably correlate with a capacity to manage flight risk. They prioritize people with relationships to defendants wherein social and physical proximity is high so that direct intervention, such as surveillance, can be made on compliance efforts. Alternatively, bail agents look for people who might indirectly incentivize court attendance by being a social relation that defendants want to avoid harming through non-compliance. Women are again prioritized during enrollment as surveillants, and social control agents more generally, because gendered notions of caretaking, familial investment, and influential power inform agents' assessments.

Notably, evaluations for both financial surety and surveillance deputy are subject to race, class, and gender bias such that women access enrollment at varying levels of difficulty and experience varying degrees of hardship. Even still, the disproportionate arrest of low-income, Black and Brown men creates a reality wherein women of color emerge as prevalent and essential in this risk management universe.

Early in my fieldwork, I observed an interaction in which one individual was perceived as satisfying both roles. More time in the field revealed, however, that this was a rare occurrence for the agency:

After a morning of back-and-forth calls between Ariana, a staff member, and a potential woman cosigner, she arrived at the agency later that afternoon with the defendant in tow. They are a Black couple who appear no older than their late thirties. Before handing over the applications, Ariana confirms that she is indeed the defendant's wife. Pleased by the woman's hand motioning to her wedding ring, Ariana slides the papers across the desk.

After collecting the completed applications, she picks up only the cosigner's for further scrutiny. She then asks aloud, "Okay, so you are a nurse I see. How long have you worked at this hospital?" After the potential cosigner answers 6 years, Ariana nods and says, "Okay, very reliable." Ariana does not ask about the defendant, but the cosigner adds, "Yes, and he works too—12-hour shifts. Work and home... that is all he does... So, hopefully, he can just call in for your check-in requirement?" Ariana nods in approval.

Once the pair leaves, she turns to me and says, "See how on top of it she was? She knows his schedule... proactive about his requirements. We won't have to worry about him."

This fieldnote demonstrates how bail agents ascertain social and economic indicators and interpret them in relation to individuals' perceived capacity to encourage compliance and safeguard profit. Ariana perceives the cosigner's confirmed social position as the defendant's wife as a durable tie with influential power. As a result, the green light is given to complete the applications.

Second, Ariana considers the cosigner a "very reliable" financial surety due to her work as a nurse at the same hospital for six years. Last, Ariana perceives the cosigner's knowledge of the defendant's schedule and her proactive questions about his bond conditions as markers of her willingness and capacity to assume the role of surveillant and exert a prosocial influence.

Not all women advance in the cosigning process with the same ease. Instead, their social relationships with defendants undergo stratification such that agents associate women with different levels of perceived capacity to incentivize court attendance and, thus, different levels of security. This differentiation was crystallized one afternoon when Victor, one of the co-owners, charged a Hispanic woman

a higher bond rate after learning that she had been dating the defendant for less than a year. In his evaluation, the type and length of her romantic relationship, in tandem with her age, did not communicate an effective social control agent. In a post-decision reflection, Victor explains:

I'm really glad I charged her 20%... you know, it's a sad pattern. These young girlfriends get with these guys and then get screwed over. They want to be the savior and show their loyalty, but that doesn't last long because the guy ends up not doing right. So, 9 times out of 10, she's gone right along with my security on the bond.

Bail agents generally preferred maternal figures and wives, as opposed to girlfriends, as cosigners because the seeming permanence of those relationships signaled stability and a high capacity to intervene or influence. Yet, individuals perceived as possessing these attributes, along with the desired financial markers, were few and far between. This reality encourages agents to deploy techniques that presumably lower the risk they assume, increasing their confidence in moving forward with bond agreements. Agents sometimes require individuals to pay more (as in the above example) or post collateral. In other instances, agents require networks to enroll more people as cosigners and jump through additional hoops. Consider Rico's case as an example:

Upon arriving at the agency, I encounter Ariana wrapping up a phone call. It was with Rico, a current Hispanic client on bond who was re-arrested the previous evening. As punishment for violating his original bond conditions, the cost of bail leaped from \$85,000 to \$225,000.

Ariana first calls her higher-ups to determine their willingness to bond him out again. Victor is enthusiastic, particularly after hearing about the significantly increased bail amount and, thus, their profit potential. Elena is also inclined to do the bond, but with a vital requirement—3 additional cosigners would be needed to compensate for the added risk. As Rico's girlfriend, mother, and friend were already cosigners, this decision would raise the total to 6.

A dialogue ensues when Ariana calls Rico's girlfriend, Angelina, to explain the conditions for a new bond.

Noting the questioning expression on my face, Ariana explains that Angelina has offered her mother, who does minor jobs here and there, as a potential new cosigner. Her grandmother, who does DoorDash, and the defendant's brother, a mechanic, are also offered as potentialities. For Ariana, DoorDash and mechanic work are acceptable, but the non-guaranteed nature of Angelina's mother's work raised a potential red flag.

Note the differential valuation across employment types as "Door Dash" and "mechanic" work are acceptable while "small jobs here and there" are discounted. It should, however, be noted that job longevity largely trumped job type in decision-making at this agency.

Ultimately, Victor and Elena decide that while it is not the most ideal form of employment, her status as Angelina's mother evens the scale. Reverberating through the speakerphone, I hear Elena say, "With his mother on the bond, and now her mother on the bond... that's solid, don't you think? He wouldn't run on his mom, and he'd never hear the end of it if he ran on her [his girlfriend's mom]."

Elena underscores the gendered and relational dimension of bond risk assessment. In some cases, "mother status"—perceived as a durable, involved, and influential relation—can triumph over a lack of financial security. Second, Angelina's "mere" girlfriend status gains perceived significance once her mother is on the hook.

Throughout the day, 6 individuals trickle in and out of the agency to (re)sign contracts, officially tethering them as cosigners. Particularly illuminating is Ariana's interaction with Emilio, Rico's friend. While he reviews his previously completed application for potential changes, Ariana mentions she will need him to answer his phone if she cannot successfully contact the defendant.

Emilio flashes a smile and says, “Oh, for sure, I got y’all... I answer fo-sho.”

Though Ariana does not respond to him directly when he leaves the agency, she says, “We’ll see how he does... but I’m hoping he’ll be a point person, able to keep an eye on the defendant since they run together.”

In this scenario, the team of bail agents strives to secure financial sureties and surveillance deputies across Rico’s support network. This includes five employed cosigners who presumably lower financial risk, and two mothers and a close friend perceived as capable of minimizing the risk of court skipping.

Family influence. Interviews with family members reveal that alongside bail agents, they also engage in assessments wherein they consider their own and others’ capacity to fulfill the cosigner role and their comfort levels with assuming risk and resulting consequences. Yvette, a 27-year-old Black woman, conveys this reality when recounting how assessment unfolded within her family to obtain a cosigner for her brother’s bail bond. Securing his release would require \$2,000, an amount that Yvette repeatedly expressed to me that her extended family had gathered relatively quickly. What delayed the process, however, was the difficulty of finding a suitable cosigner.

When I ask Yvette about what role(s) she played in the defendant’s bond experience, she explains:

I was involved in getting the money together and spreading the word, telling the people who matter, like my mom. I actually went through the process of being the official cosigner, but I ended up getting denied, so I had to find another cosigner.

I probed further on this last point, and she opened up about a range of failed cosigner mobilization attempts before her own. Her brother’s first calls from jail were to his father, as this was the only phone number he had committed to memory. His father was willing to contribute funds toward the bond. However, from Yvette’s assessment, he was convinced that his criminal record prevented him from being viewed as an appropriate cosigner. He was also adamant about not interacting with institutions that could re-entangle him in a carceral web, an example of system avoidance (Brayne 2014).

The cosigner applications I encountered during fieldwork did not explicitly ask about criminal records, and I did not observe agents running potential cosigners’ names through a crime records database. However, they did not allow defendant clients, people with known pending charges, to serve as cosigners simultaneously. Moreover, given the collateral consequences of possessing a record, it is reasonable to assume that those with criminal histories are likely disadvantaged across the desired indicators and, thus, less likely to be enrolled as cosigners.

Beyond the defendant’s father, Yvette engages in two more unsuccessful attempts to mobilize a cosigner. The first effort involved their mother, who opted out because her out-of-town employment complicated her ability to appear at an office to sign paperwork and submit documents. The second attempt included an aunt unwilling to assume financial responsibility for a failed bond agreement. After these failed efforts, Yvette describes offering herself as a potential cosigner:

I called [the agency] and asked what the requirements were. I basically met all of them except you had to have been working at your job for more than a year.

I’ve been employed for a year but thanks to COVID, I had to switch jobs... so I haven’t been there for a year, it was like maybe ten months. Close enough though, right? Or so I thought.

So, I applied anyway to try my luck, I guess, but nope. Denied. They wanted it to be at the same place continuously for over a year.

After an extended pause, she adds:

And it’s crazy you know... when we found out it was like okay, we got the money, but who’s gonna act as cosigner?

Who’s not a felon? Who’s been employed? Like employed for a year when everybody we know got laid off during COVID or has been unemployed? It’s mad tough.

Although taking an additional month, Yvette and the defendant's dad convinced his stepmother to cosign the bond. To Yvette's delight, she was instantly approved by the respective agency, and her brother could come home.

Yvette's network presents a complex case of assessment and eventual enrollment. A father's desire to avoid carceral re-entrainment, alongside the assumption that his criminal record would negatively impact his perceived credibility, discourages any attempt at cosigning. A sister's inability to display a continuous year of employment, despite the layoff being out of her control, results in her cosigner application being denied. In both instances, agency requirements, rooted in risk-mitigating factors that are unevenly accessed across racial and class groups, narrow the pool for enrollment. Equally important is the opting out that simultaneously occurred within the network based on their assessments of logistical barriers to becoming a cosigner or their kin's risk of flight and the resulting fallout.

Consequently, enrollment can increase the time and effort that some networks expend on finding a suitable cosigner even if, as Yvette emphasizes, they can clear the monetary hurdle. Within my sample, such barriers to enrollment were overwhelmingly discussed by people of color with limited resources. This prolongs the associated defendants' pretrial detention, which, in turn, can exacerbate relational tension, financial strain, and/or compromised health in already disadvantaged communities (Laisne et al. 2017; Smith and Coleman 2024).

Responsibilizing the Enrolled

Data thus far indicate that bail agents—and, to a lesser degree, families—select cosigners based on perceived attributes that presumably translate into suitable financial sureties and surveillance deputies. Yet how do agents facilitate cosigners' adoption of these roles? I find that they responsabilize people through financial and carceral threats that induce feelings of personal accountability and obligation to act. In addition to doubly penalizing cosigners, these threats work to align cosigners' interests with those of bail agents and the state. Adopting the role of surveilling surety is beneficial for cosigners' financial well-being, which, in turn, is beneficial for pretrial risk management and profit maximization among bail companies.

Victor abstractly conveys the process of responsabilization to me near the beginning of my internship tenure:

I generally give the same speech to cosigners. I say, "You do realize you're signing up to be responsible for \$40,000 if they don't go to court. And if you don't pay, you can be charged with theft of service."

Typically, they don't realize that that is the commitment they're making. Once the realization sets in, people often hesitate and think long and hard about if this is what they want to do.

Through this standardized spiel, Victor positions potential cosigners as personally liable or "signing up to be responsible for \$40,000 if [the defendant] don't go to court." The threat extends beyond financial loss when he elevates the potential consequence to one that evokes notions of carceral contact, "be[ing] charged with theft of service." Victor's subsequent recounting of the speech's impact on cosigners suggests it effectively instills a sense of gravity as "people often hesitate and think long and hard" about taking on the role.

A return to Rico's case reveals how responsabilization is achieved through agents' deployment of dual threats:

Angelina and her mother arrive with a cash down payment of \$14,530. Once the amount is verified, the pair moves on to (re)signing paperwork. I hear a gasp from Angelina's mother when she arrives at the document showcasing the amount owed if Rico misses court.

"What would happen next?" she manages to squeak out.

"You'd go to court and then potentially go to jail because theft of service is a criminal charge." For emphasis, Ariana glides her hand toward the top of the page to point out the bolded words, "**theft of service.**" She adds, "Yeah, all this paperwork isn't just because. You're signing a loan agreement, a legally binding contract. You're a cosigner, you know? You just paid all this money, taking on this risk. So, if Rico doesn't do what he's supposed to, y'all will all be in trouble in court."

With a nervous laugh, the mother returns, “For how long [in jail]?”

Before Ariana could answer, Angelina chimed in with, “Dang, so we’d all go to jail?... Well, nah, we have his [Rico’s] mom on the bond so he won’t do nothing crazy.”

Angelina gently pats her mother’s arm while saying this, which I ascertain is an attempt to calm her. After several seconds, the mother’s face takes a serious tone, and we lock eyes as she says, “No, no. We’d never let it get to that point. We’d do what we have to do.”

True to Victor’s presentation of the agencies’ typical spiel for cosigners, Ariana demonstrates that by stepping into the role of surety, an action formalized through monetary exchange and document signing, individuals take on the prospect of financial loss that is then criminalized through legal jargon like “theft of service” and the threat of jail. Individuals can also be threatened and even shamed with the possibility of a failed investment or having “paid all this money” for nothing. The emotions conveyed by Angelina’s mother and her parting remark suggest that financial and carceral threats are effective responsabilizing tools.

Remarkably, more discussion with agents revealed that “theft of service” is not a criminal charge but a civil matter in which the maximum penalty for cosigners is being sued, not jailed. Nevertheless, this knowledge is concealed from clients² as agents regularly draw on the coercive leverage of the state and intermingle its legitimating power with the threat of losing money. In effect, this creates an environment in which cosigners, like Angelina’s mother, feel compelled to “do what [they] have to do” for the success of the bond.

Fraught Instrument of Surveillance

A key component of what cosigners “have to do” is ensure the compliance of their system-involved kin. While agents attempt to enroll people they perceive to wield such power, they also attempt to achieve this goal by responsabilizing people as surveillance deputies. Being a surveillant is a fraught position to occupy. On top of being financially incentivized to keep track of defendants’ whereabouts, individuals also have personally derived motivations for engaging in behavior thought to benefit their system-involved kin. Agents seek out people who demonstrate or are perceived as inclined or willing to participate. However, cosigners do not experience their responsabilization as an amicable partnership. Instead, their laboring as a surveillance arm of the state is the result of financial tethering, threats, and complicated emotions. Ultimately, they find themselves doing invisible emotional labor to cope with or rationalize their participation.

Dericka is a 26-year-old Black woman who acted as a cosigner for her older brother. In describing her experience, she discloses the various factors informing her choice to surveil:

I was told that if he missed a payment or didn’t check in, they would call me. They did actually call me a couple of times because I’m the one that signed the papers. Because of that fact, I had to be the person behind it. I had to make sure he stayed in line because if he got in trouble again that’s on me too because I paid the bond. But I guess it comes from that and me feeling like I could have helped him better, so maybe he wouldn’t have got into trouble. I can do that now I mean.

Dericka’s statement of “I was told” reveals that the expectations of the respective bail agent inform her understanding of her role in the bond process. She then demonstrates that their perspective has been internalized and adopted as her responsibility because she “signed the papers” and is now “the person behind it,” a feeling likely cemented through the phone calls from the agency. Consequently, she took steps to ensure that her brother “stayed in line.” While not showcased here, this included moving to a two-bedroom apartment so that he could live with her and creating a weekend check-in policy. She rationalizes her willingness to move him into her home and engage in surveillance as stemming from her having “paid the bond” and a fear of their both being in trouble if he “didn’t do what he was supposed to do.” Mixed in with the financial tethering and threat of carceral contact is also the guilt Dericka felt for not having prevented her brother’s legal trouble. To some degree, she can make peace with being a surveillant by framing it as a way for her to now “help [her brother] better.”

² See Fong 2023 for another example of authority figures intentionally withholding clarifying information to promote compliance.

Help, however, has limits, and peace did not last long, because shortly after that, her brother moved out and was rearrested for violating a no-contact order. While being brought into custody prevented a failed court attendance and an accompanying bail debt for Dericka, she was forced to pick up a second job to cover rent for an apartment priced for two. This ending underscores the harsh reality that even without a missed court appearance, the fallout of cosigning bail can be consequential, especially for disadvantaged individuals.

Ginger, a 50-year-old white woman who bonded out a close friend, also engages in surveillance and describes a couple of variables informing this act:

Well, I kinda tried to make sure that he was staying out of trouble, that he wasn't doing anything stupid. [She laughs]... So, I was kinda trying to keep an eye on him more than normal, because at that point, my car was up for grabs if you did do something stupid. You're gonna make me lose my car, which is an expensive car, and we don't wanna lose that.

So, you know, I was trying to protect him, but also protecting my investment.... I was protecting my investment, but also, I didn't wanna see him get into any more trouble. I didn't wanna see that progress any further than it did. I wanted to see him get back out and get back to his normal life as well.

In addition to paying \$6,000, Ginger posted her car as collateral, an “investment” that could be “protect[ed]” as long as her friend abided by his bond conditions. The operation of financial threat, in this case, asset seizure, as a social control mechanism is clear as Ginger, in turn, recounts “kinda trying to keep an eye on him more than usual.” However, making sense of Ginger's actions as solely transactional would be an impartial characterization of her motivation. “Protecting her investment” is weighed evenly against her friend's progress as she “wanted to see him get out” of jail and “get back to his normal life as well.” Completing bond was integral to his doing so, even if it meant being subjected to her surveillance.

Being a surveillance deputy was not always a loaded position fueled by both selfish and selfless motivation. For some cosigners, particularly those who did not trust defendants to do right by them, surveillance was all about protecting their financial well-being—an outcome they were willing to do anything for, including turning the defendant in themselves. In instances where there is a seeming lack of love or caring obligation, the cosigned loan agreement becomes extremely important for ensuring that surveillance occurs and flight risk is managed.

Liz, a 31-year-old white woman, is a prime example of just how effective the threat of financial loss is for responsabilizing surveillants. To appease her mother, who was well into stage four cancer, Liz agreed to cosign her older brother's bond. She instantly regretted it, however, because shortly after being bonded out, he distanced himself from their family and refused to check in with his bonding agency. When I asked Liz if she had any anxiety about her brother not showing up to court, she answered:

At this point, no. Because I'm probably going to have to snitch on him, and call and tell them I know where he is because I'm not paying \$25,000. I'm not a snitch, but I can't afford 25 grand... I maintain tabs on him through his girlfriend. I follow her on social media and I guess you could say we have a communication-ship.

For Liz, the threat looming large in her mind is bearing responsibility for the entire bail amount if her brother failed to appear in court. Having already paid a non-refundable fee of \$2,500 to his bail agent, she refused to give up any more money for her brother, who, by her evaluation, could not stay out of trouble. Though she agreed to act as cosigner, it was for her mother's sake, not the defendant's. Having minimal trust that her brother would make his court appearance, she was prepared to “snitch” and give up his location. To do so, she surveils virtually through social media and indirectly through his girlfriend. While they are not particularly close (only a “communication-ship”), she can use the limited connection to avoid the consequences of a failed bond agreement. Accordingly, when cosigners are responsabilized to surveil through a monetary sanction, in this case, a cosigned bail bond, they are given not only a way to rationalize their involvement but also compelling motivation for transferring surveillance work back to the state.

Subject of Surveillance and Carceral Control

An inadvertent consequence of enrollment is that cosigning family members and friends can also become subjects of surveillance and carceral control. Participants describe this phenomenon as a combination of invasive information collection, exposure to financial and carceral threats, unwanted correspondence, required interaction, and possible future tracking. Even more, these exposures operate in tandem with the procedural, emotional, and financial stress that accompanies cosigning a bond. Women disproportionately bear this consequence, with some Black and Latina respondents feeling criminalized by the experience.

Dericka felt her subjugation right away through the information collection process. She explains:

It was very stressful and overwhelming... it was not a good experience. Because I had to sign all these papers... and they asked all these questions, personal questions too.

They wanted to know how much I paid for my apartment; they wanted to know my license plate number... what kind of car I had, the car make and model, year, coup, and hatchback. Driver license of course... they asked for my last five addresses... how much I make, my job, my supervisor, they asked that too, the address of my job...

They asked me so many questions that I thought that I was the one who did the charge.

Dericka has recounted a slew of information agents require on applications to gain a sense of cosigners' assets and work-life profiles. This information can be doubly used for both surveillance and tracking purposes if the defendant falls off the radar while on bond or fails to appear in court. Though Dericka was not facing pending criminal charges herself, through the collection of such a vast amount of personal information, she described feeling as if she were the "one who did the charge."

When I follow up by asking her what part of cosigning was so stressful, she provides insights into how the information collection process becomes muddled with criminalization:

I felt like the pressure was on me simply because I was reading the paperwork and everything, and the woman at the office was telling me "He can't mess up while he's on bond" and blah blah blah... and if he were to mess up again, all the money I just used to get him out went to waste, and then I'd be in trouble too.

In addition to finding the information collection process overwhelming, Dericka felt stressed about the pressure associated with serving as a cosigner. Transforming her voice to mimic the bail agent's, Dericka repeats the warning that her brother "can't mess up while on bond." Then, switching back to her voice, she shows internalization of financial and carceral threats and a felt responsibility to reduce the likelihood of either coming to fruition. "The pressure was on [her]," Dericka expresses, "if he were to mess up." Not only would her money have "went to waste" (financial threat), but she'd "be in trouble too" (carceral threat).

While Dericka attributes her experience of criminalization to explicit threats accompanying information collection, Camila, a 40-year-old Hispanic woman who bonded out a close friend, instead describes feeling like a quasi-defendant because the information she had to provide could allow for future surveillance. She explains:

There's a lot of paperwork involved because you have to go sign a lot of stuff. Then they want to make sure they can find you in case they have trouble finding her. So, it's just... not a process I want to repeat.

I'm not used to anybody trying to know where I am, so it's just weird having them need to know information like that. I'm not used to having people trying to track me down. *If I wanted to be found and feel like a damn defendant, then I'd commit the crime myself.*

For cosigners like Camila, simply knowing that surveillance was possible was enough to make them “feel like a damn defendant.” For others, surveillance extended beyond a possibility to a frequent occurrence via unwanted communication and imposed requirements.

Ry is a 21-year-old, bi-racial college student. Our interview was rescheduled three times because juggling coursework and her fiancé’s bond was stressful to navigate, eating at both her time and mental well-being. In her own words, she expressed, “I’m happy I could help, but at the same time, it’s dealing with the bail people, you know? It’s like... *I feel like I’m a defendant too. Like I’m in jail too.*”

When I asked her to explain further, she said, “The multiple phone calls, the emails, the requirement that I show up to court too... it’s kind of like... I have anxiety about him and what’s going to happen, and now this... I’ve ended up being the defendant as well.”

Just as risk-mitigating properties are not perceived equally across demographics, neither is the burden of cosigning bail, even without the fallout from a failed bond agreement. The distinct recollections that women of color respondents provide suggest that subjugation to surveillance and carceral control is rendered differently when filtered through the lenses of gender and race.

DISCUSSION AND CONCLUSION

In the *Culture of Control*, Garland (2001) documents the advent of a new network of public-private partnerships devised to prevent crime through commercializing public functions. The formation of links between traditional criminal justice agencies and private companies symbolically conveys and practically aids in transferring responsibility for traditional state functions onto corporations and, ultimately, private people (Beckett 2001; Brayne et al. 2023). This article presents commercial bail as a case of responsabilization and aims to demonstrate one way that private companies compel everyday people to take up a state problem as their own to rectify. I articulate this process via four steps with broader implications for inequality within the criminal legal domain and beyond.

First, I find that bail agents use a cosigned bail bond agreement, a type of monetary sanction, to selectively enroll people as social control agents who ensure payment and the future court appearance of their loved ones. During this enrollment, agents mimic market lenders and judges, drawing on economic and social indicators to assess the reliability of individuals as sureties and surveillants. Markers are not neutral; rather, they reflect one’s cumulative (dis)advantage and are interpreted by evaluators who have implicit biases and operate within situational contexts that influence their decision-making (Clair and Winter 2016). Consequently, financially stable women emerge as essential in this risk management universe because they are perceived to have the financial means and caring obligation to pay (Page et al. 2019) and the ability to ensure the compliance of their system-involved kin.

Yet, the overrepresentation of people of color at every stage in the criminal legal process means that Black and Brown women are disproportionately targeted for enrollment. As evidenced by the findings, sometimes women of color are perceived to have the desired financial and social markers that facilitate a relatively easy, albeit still extractive, enrollment process. Their presumed status as suitable cosigners is also perceived and subsequently encouraged by defendants and others within their networks. Other times, though—and particularly for women of color who are short-term girlfriends or unstably employed—immediate access to the status of “suitable cosigner” is denied. Instead, they must do more, pay more, and wait longer to *possibly* be deemed suitable for further extraction. The assessment that happens during enrollment perpetuates inequality then, as delayed approval or outright refusal subjects some women of color to anger or disappointment from family and the continued confinement of a loved one, which has been associated with financial hardship, relationship strain, and adverse health for all parties involved (Laisne et al. 2017; Smith and Coleman 2024).

Second, I find that once enrolled, bail agents use financial and carceral threats with the loan agreement to responsabilize people to adopt the roles of surety and surveillance deputy. This strategy is effective in part because it facilitates interest convergence between cosigners, bail agents, and the state. Social control agents who are successful in surveilling and safeguarding profit are successful in helping their loved ones avoid further legal troubles and themselves avoid further financial entanglement. Through this convergence of interest, we also observe what researchers describe as “the entwinement of lateral surveillance with state and corporate power” (Brayne et al. 2023:483). The current study emphasizes the coercion and anguish that can accompany convergence for ordinary citizens and, like

others (e.g., [Scott-Hayward and Fradella 2022](#); [Yang 2017](#)), questions if coercion, financial or otherwise, is necessary to lead to state-desired outcomes.

As discussed previously, in first appearance court, judges often ask the defendant and their support system representative about their involvement in prosocial activities, such as employment or school, and their connection to individuals who can presumably exert a positive influence on their behavior, such as romantic partners and children. Thus, whether bail is granted for free or at a price, judges, like agents, assess the financial and social stability of defendants and their loved ones and hope that their determinations result in defendants' reappearance in court.

The difference with commercial bail is that agents do not simply *hope* that evaluated family members will exert social control. Instead, they responsabilize them to do so through coercive techniques such as cosigned bond agreements and financial and carceral threats. It is true that when family members eliminate bail companies as middlemen and directly post bail with courts, there is still an element of coercion as they risk losing the deposited amount if the defendant skips court. Yet, since bail is regularly priced independently and disproportionate to the financial resources available to defendants and their families ([Neal 2012](#)), many never experience this pathway and are funneled to bail agencies instead. As interviews with family members reveal, the coercion felt via the cosigned loan agreement and accompanying threats is immense and critical to their responsabilization.

Future research might continue to explore how coercion operates at the interpersonal and system levels to set up and maintain the practice of commercial bail. It is an open theoretical and empirical question whether such coercion is necessary to incentivize the surveillance and social control thought to increase court attendance. In any case, as we have larger conversations about the privatization of public institutions, it is important to consider what impact integrated techniques (i.e., cosigned loans) might have on criminal legal functioning and the well-being of system-involved people and their families.

Third, I find that the role of surveillance deputy is unevenly distributed, and, once adopted, felt with varying degrees of strife. While prior research on bail has identified women, and particularly women of color, as disproportionately occupying the cosigner position ([Page et al. 2019](#)), this article demonstrates that they are also disproportionately responsabilized as surveillants. Beyond operating as eyes of the state, a position that likely complicates household dynamics, this role also comes with the pressure to manage a state problem that, through a cosigned loan, seemingly becomes one's own. This is all the more troubling when we recognize that it is women, predominantly women of color, being responsabilized to use their own resources to make the pretrial system work, to take care of themselves concomitantly, and to bear the repercussions whether their efforts fail or succeed.

This study begins to uncover the invisible emotional labor of acting as a surveillance arm of the state and finds tentative evidence that women experience financial tethering, threats, and resulting emotions with uneven levels of difficulty and likely uneven access to support. Future studies might explore whether becoming a surveillance deputy transforms relationships between individuals and their defendant-kin. Similar to the negative intracommunal treatment of “snitches” or people perceived to be in alignment with the state, we might expect the adoption of the surveillant role to disrupt levels of trust and dependency and even increase the risk of interpersonal violence.

Last, I find that instruments of surveillance do not escape surveillance and carceral control themselves. Like their defendant counterparts, cosigners are subjected to invasive information collection, correspondence laden with financial and carceral threats, and the possibility of being tracked. Prior research documents the “secondary prisonization” women face when they visit loved ones in prison ([Comfort 2003](#)) and the “punishment by association” that they endure when attending court ([Eife and Richie 2022](#)). Regarding commercial bail, scholars find that women of color experience predation through direct targeting as idealized sources of extraction ([Page et al. 2019](#)). This article demonstrates that in addition to predation, women directly experience surveillance and carceral control, which feels criminalizing for some Black and Latina respondents. These experiences, in turn, contribute to a self-fulfilling prophecy where women of color are coerced to become precisely what they are targeted for—essential players in the pretrial risk-management universe.

To move toward a more optimal bail system, [Yang \(2017\)](#) encourages institutional actors, policy-makers, and researchers to deploy a cost-benefit framework that maximizes social welfare. By this, she means that instead of primarily focusing on the benefits of pretrial detention (i.e., preventing flight

and new crimes) or money bail (i.e., providing financial incentives to comply), we should also consider the “private costs to individual defendants and social costs on other members of society, with the consequence that the bail system is potentially generating massive losses to social welfare” (Yang 2017:1404). Equally important in the equation, Yang (2017:1407) argues, is acknowledging that “defendants vary not only based on risk but also on harm.” Doing so would again draw our attention to social welfare and equality as it acknowledges that the harm of pretrial detention, or alternatives such as cash bail or electronic monitoring, is likely much more significant for marginalized communities.

My discussion of familial responsabilization illuminates a universe of real and unevenly distributed economic and social harms that are glossed over in current reform debates. Women, and particularly women of color, are responsabilized to manage flight risk through their enrollment as surveilling sureties. While commercial bail is an extreme case, in that it uses a contractually binding monetary sanction to enroll people, it is worthwhile to think about how these same patterns and outcomes might be replicated in alternative models. For example, Myers (2019) documents responsabilization in Canadian pretrial practices where commercial bail is nonexistent. I suspect that through different mechanisms, the burden of risk management may again fall back on support system members, especially women of color, burdening them even further in the universe of bail reform.

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