

A Debt of Care: Commercial Bail and the Gendered Logic of Criminal Justice Predation



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Among the institutions that link criminal justice and inequality in the United States, commercial bail remains one of the most important yet least understood. Each year, the bail industry extracts millions of dollars from lower-income Americans, disproportionately draining resources from poor communities of color. We draw on ethnographic research to explore how the bail system operates as a predatory social process, arguing that gender interacts with class and race to structure resource extraction in this field. Poor women of color are especially subject to bail predation because they are seen within the larger social organization of care as bearing primary responsibility for defendants. Gendered care work and emotional labor are thus central to the field's logic of practice and to bail industry profits.

Keywords: bail, care, gender, ethnography, predatory industries

Among the institutions that link criminal justice systems to social inequalities in the United States, bail remains one of the most important yet least understood. In recent decades, scholars have shown how social subjugation and economic inequality weave their way throughout the origins, operations, and consequences of mass incarceration (for example, Western 2006; Patillo, Weiman, and Western 2004). Policing and judicial action have been subject to extensive scrutiny in this regard (Epp, Maynard-Moody, and Haider-Markel 2014; Lerman and

Weaver 2014; Kohler-Hausmann 2014). The collateral consequences and spillover effects that ripple through the social networks of people who become entangled with the system have as well (Clear 2007; Wakefield and Wildeman 2014).

Scholars have begun to clarify how monetary sanctions such as fines and fees compound inequalities as they turn poor people's assets into government revenues (Harris 2016; Harris, Evans, and Becket 2011). Still, knowledge about commercial bail has changed little since legal

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scholar Malcolm Feeley observed in 1979 that “there has been virtually no scholarly interest in the bail bondsman. . . . this neglect and perfunctory dismissal cannot be attributed to the bondsman’s lack of importance” (96–97). This blind spot is especially troubling because commercial bail stands at the center of resource extraction in the pretrial process and is one of the most distinctive aspects of the U.S. criminal justice system. The United States and the Philippines are the only countries that permit a for-profit bail bond industry. And in a criminal justice system shot through with efforts to generate revenues for public institutions (such as fines and fees) and private firms (such as prison profiteering), commercial bail is one of the oldest and most enduring sites of extractive public-private partnership. Since the 1910s, it has offered a template for how the machinery of criminal justice can be used to siphon assets from poor communities.

Each year, the bail industry extracts millions of dollars from lower-income communities, disproportionately from poor communities of color and often in cases where defendants are found not guilty (see, for example, Gupta, Frenchman, and Swanson 2016). These revenues flow to state and market institutions alike, but the biggest moneymakers are the large insurance corporations that back the bonds sold in smaller bail businesses. In a field dominated by about thirty-five major players, funds reliably flow to the big sureties. In 2011, they secured about \$13.5 billion in bonds; and while auto and property insurers typically pay out 40 to 60 percent of their revenue in losses each year, records suggest that bail surety companies pay less than 1 percent in losses (Bauer 2014).

Against this backdrop, this article builds on prior scholarship in several ways. First, we adopt the bail industry as a focal point for analyzing the interplay of social inequalities and the criminal justice system. In addition to illuminating a rarely studied site of this relationship, the analysis of bail offers a distinctive perspective on the broader practice of resource extraction in the criminal justice field. Research on inequality and bail has laid important foundations for this work, showing, for example, how racial factors affect judges’ bail decisions and how pretrial detention can negatively affect

legal outcomes, employment, earnings, and access to welfare benefits (on racial factors, Demuth 2003; Schlesinger 2005; on detention, Dobbie, Goldin, and Yang 2016; Gupta, Hansman, and Frenchman 2016). Other studies have made progress in measuring the extent and distribution of bail revenues, focusing on how wealth is disproportionately drawn from poor communities of color (Gupta, Frenchman, and Swanson 2016; Color of Change and ACLU 2017). Pursuing a more process-centered analysis, we examine how the unequal terms of societal relations structure bail practices, including how bail agents pursue extractive relations with clients and how bail practices function as mechanisms for the reproduction of inequality and social control.

Second, this article offers a complement to the *punishment* perspective that typically frames studies of resource extraction in the criminal justice field. Most scholarship on this topic has emerged from the punishment and society subfield and reflected its guiding concerns. Thus, leading scholars conceptualize financial takings in the criminal justice field as “monetary sanctions, sometimes called Legal Financial Obligations (LFOs), [which] include fees, fines, restitution orders, and other financial obligations that courts and other criminal justice agencies may impose on persons accused of crimes” (Harris, Evans, and Beckett 2011, 235–36). Similarly, leading explanations for these practices tend to focus on developments within the criminal justice field, emphasizing how a “culture of punishment” created new needs for revenue streams to fund the penal state, fueling and justifying the push for tougher monetary sanctions (see, for example, Harris 2016).

The punishment frame has fostered a growing scholarly community and important empirical and theoretical advances. By isolating state-centered financial takings in the penal field, however, this frame can obscure analytic and historical questions about how state-implemented takings (such as fines and fees) relate to other modes of targeted financial extraction. Indeed, reliance on the punishment frame helps explain why studies of monetary sanctions have devoted so little attention to closely related practices that have grown in the same decades—such as the systematic resource

extractions associated with monetary bail, asset forfeiture, and prison profiteering.

To complement studies that adopt a punishment frame, we draw on the concept of predation as it has been developed in the broader study of political economy and social domination.¹ A predation frame encourages scholars to locate the varied revenue projects woven into the criminal justice system today in the longer historical trajectory of dispossession in the United States—institutionalized takings, past and present, in which state and market actors routinely target subjugated groups for resource extraction. The roots of this approach can be traced to several intellectual traditions: theories of the predatory state (North 1981; Tilly 1992); Marxian analyses of primitive accumulation and dispossession as ongoing features of capitalism (Glassman 2006; Nichols 2017); studies of “racial capitalism” in the black radical tradition (Robinson 1983; Du Bois 1935); and theories of the symbiotic relationship between social contract and social domination (Pateman and Mills 1997).

Challenging liberal-democratic theories of state and society, these varied traditions suggest how a social contract among dominant actors may be premised on and institutionalize various forms of subjugation (Pateman and Mills 1997). Images of free exchange among equal partners to contract, in this view, enable and legitimate exploitation (such as wage-based employment relations) and expropriation (such as of land, labor, or money). Expropriation and exploitation operate as foundational features of a liberal order that, though it appears to be rooted in voluntary agreements among equals, is actually organized around hierarchical power relations rooted in class, race, gender, and other axes of social dominance (Dawson 2016; Fraser 2016). Predatory modes of dispossession, such theorists argue, have long played a central role in enriching dominant groups and building and funding liberal state and market institutions, underwriting civic hierarchies, and sustaining the social order.

From this perspective, fines and fees can be seen not just as burdens imposed as sanctions

but as elements of a variegated palette of extractive relations and practices associated with the criminal justice system. In turn, these elements can be drawn into a common frame of analysis with payday lending, subprime auto and home lending, and other predatory projects that exploit marginalized communities as captive markets, creatively converting their disadvantaged social positions into revenue streams. Criminal justice predation can also be located in relation to the longer history of dispossession in the United States, from the antebellum appropriation of labor and land through chattel slavery and settler colonialism through the postbellum systems of debt peonage, sharecropping, and convict leasing. In this article, we analyze the bail field as a complex of socially and politically produced *predation opportunity structures*: frameworks that convert the needs, vulnerabilities, and aspirations of subjugated populations into revenue opportunities for state and market actors. We ask how social inequalities guide these operations and how predatory bail practices, in turn, reinforce social inequalities.

Along a third axis, we extend prior work by responding to calls for greater attention to gender in the study of inequalities and criminal justice practices (see, for example, Haney 2004; Crenshaw 2012). Like other predatory practices in and around the criminal justice system, resource extraction in the bail industry is organized by race and class and guided by their social and spatial coordinates. As we show, however, gender is no less central to the intersectional matrix that organizes action in the field. Just as men of color are disproportionately targeted for arrest and incarceration, women of color disproportionately shoulder the burdens of the criminal justice field’s financial takings. The gender basis of bail predation, however, is not simply a matter of sex differences in the distribution of burdens. Instead, to grasp the underlying logic of practice in the field (that is, the largely taken-for-granted dispositions that generate patterns of action), we need to understand how race- and class-focused resource extractions are ad-

1. This analytic shift is pursued in greater detail in a book-length project. Joshua Page and Joe Soss, *Preying on the Poor: Criminal Justice as Revenue Racket* (under contract, University of Chicago Press).

vanced through gendered ethics of care and ordered by the gendered organization of care relations.

Much of the work on collateral criminal justice effects focuses on dynamics of exclusion and marginalization. Here, we focus on how gendered bail practices work to draw women cosigners into the criminal justice system's predatory operations. In this regard, our analysis builds on Megan Comfort's ethnographic study of women who visit incarcerated men and the dynamic process of "secondary prisonization," a "less absolute but still powerful form" of socialization and social control associated with prison exposure (2008, 15). We extend this insight to a gender analysis of bail-centered predation. Through the bail contract, cosigners are repositioned as economic actors assuming new debts, as citizens taking on new relations to state powers, and as social actors experiencing new or revised ties to defendants and their relations. Bail processes insert new financial terms into existing relations of care, often reconstructing them in the idiom of debt (LeBaron and Roberts 2010). In this regard, bail-centered predation can be seen as productive— not only in its incorporation of cosigners into criminal justice processes and its reconstruction of women's civic and economic positions, but also in its reordering of gendered social relations and associated ethics of care.

We depart from Comfort's account of secondary prisonization in one important respect. Comfort argues that the women who support prisoners become secondary targets of social control, socialization, and financial extraction. In the bail field, we argue, women cosigners are better conceptualized as primary targets of predation. Few defendants have the resources needed to enter bail contracts on their own. From the start, the defendant functions as an entry point (even a lure) for a predatory process that focuses on locating and securing cosigners. Women, and most of all mothers, are prized among potential bail clients because they are seen as likely to have both the financial means and the obligations to care (that is, the motive) to transfer resources to the bail industry. Thus, social interactions between cosigners and bail agents are suffused with ethics of care and structured by

the gendered basis of caring relations in the broader society.

Our analysis is based on an immersive ethnographic study of the bail industry in 2015 and 2016. For about eighteen months, Joshua Page worked as a bail bond agent, participating and observing as an employee on the frontlines of the industry. Drawing on this fieldwork, we ask how gender operates (in conjunction with race and class) as a structure of interpretation and action, guiding practice on "both sides of the desk" in the bail industry. How do participants on each side of the social transaction understand and make use of the gendered rules of the game? How do gender and the gendered basis of care relations position women (especially women of color) as primary targets of predation? And how should scholars of inequality and criminal justice think about the consequences of the bail industry's gendered process of resource extraction?

CARE, INEQUALITY, AND THE CRIMINAL JUSTICE SYSTEM

Throughout the fieldwork, bond agents and cosigners routinely framed efforts to secure bail in terms of obligations to take care of the defendant. The predominance of lower-income women of color among cosigners reflects not only the social targeting of criminal justice practices but also, and equally, the social forces that allocate and regulate caring responsibilities. That is, to understand who cosigns for bail bonds and how bail practices operate, the bail industry needs to be located within the social structure of care relations in the broader society. Because cosigners and defendants engage each other on terms defined by ethics and expectations of care, these concerns define the terrain that bail agents navigate as they recruit and manage cosigners. As a result, the bonds-person's job entails various forms of "emotional labor" calibrated to convey care for the caregiving cosigner and a shared desire to take care of the defendant (Hochschild 2012). We situate our study within the broader interplay of care, social inequalities, and the criminal justice system.

Criminal justice institutions generate needs—physical, financial, emotional, spiritual, and social—which raise fundamental ques-

tions of social responsibility, morality, and justice. Who is obligated to address these needs? Why, from a moral standpoint, should someone extend or deny care to an individual caught up in the criminal justice system? And to what extent should the distribution of caring burdens, in the matter at hand and in the longer history of a social relationship, be considered just or unjust? These questions fit neatly into a long tradition of inquiry exploring the operations of care as an ethical standpoint and the construction of care as a gendered site of social obligation and labor. This tradition examines how socially situated actors contemplate their moral obligations in light of their specific attachments, statuses, and roles (Gilligan 1982; Noddings 1984). Yet as political scientist Joan Tronto and others have emphasized, this “ethic of care” does not stand apart from considerations of justice and democracy (Tronto 1993). Indeed, because care is not just an ethical matter but also a practice necessary for societies to function, questions about how care should be organized and how its burdens should be distributed are inseparable from questions of power, justice, and politics (Tronto 1993, 2013; Fineman 2004).

Informed by an interdisciplinary literature in which feminist scholars have often taken the lead, one can see how the forms of caring labor that surround criminal justice institutions reflect the broader ideological and practical construction of gender-, race-, and class-specific labor roles (Federici 2004; Glenn 2010). Historically rooted in a contrast of public and private spheres, gendered divisions of labor have made women primarily responsible for care work in domestic spaces and called on men to serve as the “breadwinning” earners of a family-sustaining wage (Gordon 1994; Fineman 2004). “Men’s work,” framed as freely exchanged labor, has thus been viewed as deserving of financial compensation; women’s unwaged caring labor has been cast as a vocation of devotion supplying its own intrinsic, feminine rewards (Fortunati 1995). In this contrast, women’s care work

appears to exist in a world apart from market forces—a fulfillment of women’s essential nature that expresses loving social bonds and holds the deepest social and even spiritual value. Such myths have endured despite the fact that care work has long taken waged as well as unwaged forms, lower-class women being especially likely to support their families through care-work earnings (Glenn 2010). Further, the disposition to care is often regarded as a trait natural to particular individuals. Tronto reminds us, however, that such inclinations are cultivated through social trainings rooted in institutions (2013). Marriage and family laws in the United States have historically constructed care as a private duty of wives and mothers, reflecting and reinforcing family socialization processes that tend to assign caring roles to girls and women (Glenn 2010).

Yet to speak simply of women and care work is to obscure how gender has always organized care relations in varied ways, depending on its intersections with other dimensions of social subordination. Historically, for example, black women in the United States have occupied a distinctive position. With formative roots in chattel slavery, their care work has never been limited to a “private” sphere defined by family or household membership (Jones 2010; Haley 2016).² For centuries, it was expropriated through systems of slavery and then, after the Civil War, exploited through low-wage, domestic-servant arrangements. Because black women have been pressed into care work as social supports for more privileged groups, their commodified caring labor has contrasted with—and helped enable—the halo of private, devotional care attached to white, middle-class women. Indeed, black women charged with taking care of white families have often been deemed “unfit” to care for their own families—deprived of the sanctified images of Republican Motherhood that surrounded white women’s care work and often punished for alleged maternal failures in their own homes (Gordon 1994; Roberts 1997). Contemporary child wel-

2. We focus on black women’s experiences here to clarify a point that can also be elaborated, differently but no less importantly, through consideration of the exploitative care-labor relations experienced by, for example, poor Latina, Asian American, Native American and, in many instances, European-immigrant women (Amott and Matthaei 1996; Glenn 2010).

fare systems, which disproportionately remove children from black and Native American homes, enact this ongoing distrust in socially and materially destructive ways (Roberts 2001).

Like other structures of inequality, intersectionally organized caring relations tend to become entrenched through social repetition (Tronto 2013). Over time, assumptions and social pressures that designate primary caregivers can develop into natural, taken-for-granted features of social reality. Aligning behavior with such gender expectations can become an important part of what it means to be a “normal” man or woman in a society. Consider that, even as women’s opportunities in labor markets and other arenas have expanded since the 1960s, gendered care practices have remained a durable feature of American society. Women’s share of housework has declined, for example, as their employment rates have risen; yet studies show that working women still perform more than twice as much housework as their male partners (Fuwa and Cohen 2007; Bianchi et al. 2000). Today as in the past, women—and especially poor women of color—“subsidize” the mythical autonomy of the American worker in their disproportionate contributions of unpaid care work in the home, domestic service jobs in other people’s homes, and low-paid employment in care centers for children, the elderly, people with disabilities, and people with illnesses (Fineman 2004; Glenn 2010; Duffy 2007). In the United States today, for example, more than 90 percent of home-care workers are women, 50 percent are people of color, 25 percent are immigrants, and 33 percent do not have a high school education (Glenn 2010, 79).

The social organization of caring relations also shapes how care is given, received, and solicited across the criminal justice field. Since the 1970s, policing, adjudication, and incarceration have become increasingly normal life experiences in low-income communities of color (Western 2006; Lerman and Weaver 2014). The rising wave of socially and spatially concentrated criminal justice entanglements has driven a dramatic expansion of similarly concentrated needs for caregiving related to criminal justice. As the collateral consequences literature makes clear, these new needs are hardly limited to the direct adult targets of the legal

system (see, for example, Wakefield and Wildeman 2014). Meeting these needs may significantly disrupt and alter the life conditions of the family and friends of legally entangled individuals—especially among women of color who have long endured distinctively intense regimes of state-imposed punishments, deprivations, and risks (Collins 1994; Haley 2016; Gurusami 2018).

The rapid growth of criminal justice resource extraction since the 1990s has turned financial payment into a far more pressing and widely experienced need among targeted populations (Harris 2016; Page and Soss 2017). The women in Comfort’s 2008 study of prison visitation provide an illuminating example. Given the limited resources of incarcerated individuals, women typically paid exorbitant rates for collect calls, meeting social needs in ways that simultaneously delivered commissions to telecommunications firms and the California Department of Corrections (Comfort 2008, 89). The women routinely deposited funds their loved ones could use at the prison canteen, and some even went into debt sending this money. In these transactions, they saw themselves as taking care of loved ones’ daily needs, expressing loyalty, and providing badly needed emotional support (84).

Comfort (2008) frames her analysis as a process of “secondary prisonization” rooted in punishment, but this common dynamic in poor communities of color can equally be viewed through the lens of predatory governance. For the institutions that receive financial flows, gendered ethics of care function as the social fulcrum in a process that turns penal custody into a revenue-generating asset. Actors in the criminal justice field today thus follow a long history of forging profit from the care work provided by poor women of color. Indeed, an Ella Baker Center report estimates that women make up a remarkable 83 percent of all family members covering costs for incarcerated populations (deVuono-powell et al. 2015).

In the following sections, we explore the financialization of care in the commercial bail system, paying particular attention to its grammars of action, its organization, and its legitimation as we clarify how structural forces position lower-income women of color as primary

targets of predation. We also show how the gendered basis of care relations in American society underwrites the logic of practice in the bail field, structuring the understandings and actions of defendants, cosigners, and bail agents alike.

BAIL AS A SITE OF INTERDEPENDENCE AND EXTRACTION

In the pretrial process, the court may hold individuals in custody, release them on their own recognizance, or require them to post bail to ensure that they will return for their court dates. When bail is imposed, most defendants find they cannot afford the full amount, so they turn to a bail company for assistance. The private business charges a premium (usually 10 percent of the bail), generally via contract with a defendant's cosigner, who assumes responsibility for ensuring that the defendant makes it to court. Should the accused fail to appear, the court can collect the full amount of the bail from the company—a threat that motivates bail companies to return defendants to custody, sometimes using bounty hunters. Failing that, the company works to recoup the amount of the bail from the bond's cosigners. The lion's share of revenues generated through this process flow, not to individual bondspersons or "mom and pop" bail companies, but instead to the large insurance companies that, by law in most states, must underwrite the bonds.

The federal government, the District of Columbia, and a handful of states—California, Illinois, Kentucky, Massachusetts, New Jersey, Oregon, and Wisconsin—depart from this model, joining the vast majority of the world in rejecting for-profit bail. These states instead rely on a variety of other techniques to secure the defendant's appearance: having arrestees deposit money with the court, which is returned (minus fines and fees) at the end of their case; charging defendants with new crimes if they fail to appear; denying release on bail (that is, pretrial detention); requiring payment of bail for missing court; or mandating conditions of release, such as wearing an electronic monitor, checking in with court staff, or adhering to a curfew. As these jurisdictions demonstrate, commercial bail is a choice within, not a requirement of, the U.S. legal system; it is a prof-

itable industry constructed through law and policy choices, judicial decision-making, and deliberate market strategies.

In recent decades, jail systems and commercial bail have expanded together, and quickly. Between 1980 and 2015, local jail populations in the United States roughly quadrupled (Sentencing Project 2017). Trends in the bail industry followed right alongside, not only because of the swelling ranks of people passing through jails but also because of changes in judicial behavior. From 1990 to 2009, judges in large counties assigned monetary bail to a growing number of felony defendants, rising from 53 percent to 72 percent of all cases; at the same time, mean bail amounts rose 46 percent (to \$61,000), driven mostly by growth in the lucrative "upper tail of defendants [who] now face bail payments in the hundreds of thousands of dollars" (Council of Economic Advisors 2015, 6). Not surprisingly, reports suggest that between 1996 and 2012 the number of bail bond agents in the United States grew from roughly eight thousand to fifteen thousand (Burns and Leone 2005, 122; Justice Policy Institute 2012, 8).

It is estimated that today 450,000 people, 65 percent of the total U.S. jail population, are defendants who have not been convicted (Santo 2015). The vast majority of these people—roughly five in six, or 83 percent—are behind bars because they cannot afford bail, bond companies refuse to bail them out, or the court will not allow them to post bail because of probation or parole violations, mandatory in-custody drug assessments, or other legal matters. Meanwhile, commercial bail agents secure the release of more than two million defendants annually (Cohen and Reaves 2007, 4). Bail is now the dominant method for obtaining pretrial release, surpassing release on recognizance in 1998, and bail amounts set by judges have risen steadily (Cohen and Kychelhahn 2006).

The profitability of commercial bail depends on the fact that accused individuals rarely have the financial means to exit jail on their own. Bail in the United States is typically imposed without regard for ability to pay, and roughly 80 percent of criminal defendants today are indigent enough to qualify for publicly

provided legal counsel (Rabuy and Kopf 2016). Bureau of Justice Statistics data indicate just how low median incomes are among this group (Rabuy and Kopf 2016, 10). In 2002, women awaiting trial in local jails typically earned \$8,052 per year—below the poverty line of \$15,020 for a family of three or \$8,860 for a single person. Men in this group typically earned \$12,732, with white men (\$14,852) leading Hispanic men (\$13,368), and black men (\$10,800). This racial pattern—made significant by the high concentration of people of color among the pretrial population—held for women as well: The low earnings of white women (\$9,756) exceeded those of Hispanic women (\$8,508) and stood considerably above those of black women (\$6,816). In the month prior to being held in local jails, black men and women ages twenty-three to thirty-nine earned a median income of only \$900 and \$568, respectively (Color of Change and ACLU 2017, 18).

Against this backdrop of limited resources, the profitability of the bail industry also hinges on people in defendants' lives being able and willing to cosign bonds and pay bail premiums. A cosigner is usually a family member, romantic partner, or close friend who formally accepts financial and legal liability for the defendant making court appearances. "It's like cosigning for a loan," agents explain. That said, the responsibilities and conditions taken on by the cosigner are far more extensive than many expect. If a defendant fails to appear in court, the bail company may charge cosigners costs associated with locating the defendant (for example, expenses for bounty hunters). Contracts include provisions along these lines: "I am responsible for paying for investigation, location and apprehension time; this is billed at a rate of \$250 per hour per investigator plus expenses or 10 percent of bond whichever is greater" (UCLA 2017, 17). In addition, contracts may hold cosigners responsible for some fines and fees incurred by the bail company (for example, if the company files to have the court extend or dismiss a delinquent bond). Cosigners also agree to a variety of nonfinancial conditions. A 2017 analysis by the UCLA School of Law Criminal Justice Reform Clinic notes that

Some contracts require the indemnitor [cosigner] to keep the bail bond agent apprised of their living and employment situations. Others force indemnitors to grant the bail bond agent access to private information related to every aspect of their lives, including: telephone records, medical records, school records, worker compensation records, and employment records. . . . But perhaps the most egregious privacy violation for indemnitors is the authorization for the bail bond agent to physically invade their homes and to track their vehicles. (UCLA 2017, 11)

By signing the contract, cosigners become both agents of social control (in relation to the defendant) and objects of social control (in relation to the bail company and court).

Millions of people agree to this onerous responsibility each year. It is not hard to see why. Local jails are notoriously terrible places, even worse than prisons. They are often dangerous, dirty, chaotic, and mind-numbingly boring (Irwin 1985; Walker 2016). In addition to wanting relief from these conditions, many defendants are eager to get out so they can work on their cases. Indeed, research suggests that defendants who remain in jail are much more likely than those who are released to be convicted, receive longer prison sentences, and get worse results in plea-bargaining processes (Phillips 2010; Oleson et al. 2014; Dobbie, Goldin, and Yang 2016; Gupta, Hansman, and Frenchman 2016). Defendants who remain in jail also make their criminal status visible to others, raising the potential for social stigma. Locked up, they cannot fulfill their parenting obligations and may accrue absences at work or school with dire consequences. To limit the harms of pretrial confinement, then, close relations of the accused may feel tremendous pressure to cosign a bail.

But these conditions provide only a partial explanation for why so many people—and why particular groups of people—become enmeshed in the bail system via cosigning. To illuminate social processes involved, we draw on our ethnographic research in "Rocksville," a large urban county.³ Page gained access to the

3. Names used for the county, bail company, and all coworkers and clients are pseudonyms.

research site, known as A-Team, after several conversations with the owner of the bail bond company. He was upfront about his motivation—to understand the world of bail by participating in it. He presented himself as a curious professor—a “sponge”—who wanted to soak up his coworkers’ knowledge of the bail industry; because he knew little about the inner workings of the industry, this presentation was not false, even if he occasionally played it up.

Page’s position as a professor facilitated his acceptance within the company. Bail agents receive minimal respect in the legal field, and the media tend to portray them as greedy and ignorant. For some coworkers, having a professor on staff who wanted to learn from them was a source of pride; it signaled that their line of work (and *their* company) was worthy of serious scholarly interest. In fact, on several occasions, Page asked his colleagues not to introduce him as a professor because he wanted other actors in the field (such as lawyers) to interact with him like they would any other agent. Also, he wanted to protect the confidentiality of the company and his coworkers. His coworkers understood and, over time, referred to him as “the professor” less and less.

Downplaying his position as a professor, Page worked hard to show he was a serious bail agent and team player. He engaged in the same activities as his coworkers: solicited business at court, worked daytime and nighttime desk shifts, posted bonds at courthouses throughout the state, developed relationships with attorneys, attended company parties, checked warrants, and followed up with defendants who missed court or did not make payments. (He did not engage in “fugitive recovery”—the company contracted with freelance bounty hunters if needed.) Beyond these everyday tasks, he helped out whenever he could, for example, subbed for coworkers who needed time off, worked undesirable night shifts, and helped write advertisements for hiring new agents. He also engaged in the social life of the company, regularly going for lunch and afternoon coffee with coworkers, attending company parties, and exchanging texts with colleagues about bail, sports, television, movies, and life events (for example, medical procedures).

Page’s social position also helped facilitate

his acceptance in the research site. Like the vast majority of his coworkers, he is white and upper middle class (and though he has lived in cities for many years, he grew up in the suburbs of Southern California, so he could relate with his colleagues’ suburban identities and routines). Moreover, his physical appearance and interests (especially in sports) read as traditionally masculine; he has an athletic build, he practices martial arts, and his arms are covered with tattoos. A-Team is a masculine space—with a couple of exceptions, the agents, both male and female, were aggressive competitors who ribbed each other, specialized in ribald humor, and claimed not to “take shit” from anyone. Likely because of Page’s social position, self-presentation, and commitment to learning the trade, his colleagues eventually saw him as part of the team. Therefore, they rarely censored themselves around him, providing a relatively unvarnished view of the bail business in a large urban county.

While working at A-Team, Page was a paid employee. He decided to work for pay to learn what it took to make decent money as an agent. Plus, the owners informed him that he could not legally work for free. Even though he received paychecks (based solely on commissions), he did not use the money for nonresearch purposes. He used it to pay taxes on his bail income (because he was an independent contractor, taxes were not taken out of his paychecks), fund a part-time research assistant, and make donations to an organization that provides legal services to low-income people. Because he did not rely on his pay, he did not feel the same pressures as his coworkers to hustle constantly and engage in profitable but ethically and legally questionable behavior. He was free to take time off and temporarily leave behind the stresses of the job. Even though he did not rely on the income, he still became invested in beating the competition and landing bonds; he developed a strong *will to win*, arguably the defining characteristic of the big city bond agent.

Early on, Page learned that agents work mainly with friends and family rather than with defendants. Because the defendant is in jail, associates on the outside must gather money, secure collateral (if necessary), and recruit co-

signers. A-Team requires cosigners to be at least twenty-one years old and to have a “decent-paying” full-time job. The composition of unconvicted jail prisoners in Rocksville (that is, those potentially eligible for bail) aligns with the national picture. According to the 2002 Bureau of Justice Statistics Survey of Inmates in Local Jails, men make up 89.2 percent of the unconvicted jail population (James 2002). Despite being nearly 70 percent of the total U.S. population, white inmates accounted for only 31 percent of the pretrial jail population. Black and Hispanic individuals made up 43 percent and 19.6 percent, respectively. Defendants’ education levels matched their incomes, only 12.6 percent having at least some college and 33 percent some high school.

In conversations with coworkers and agents from other companies, Page routinely commented on the gender differences between defendants (typically men) and cosigners (typically women). Without exception, bail workers confirmed the observation, but the preponderance of women cosigners seemed unremarkable to them, Page came to understand, because it fit so easily into their own gendered assumptions about who would take care of defendants. Agents saw the field of play in the pretrial process through a gendered lens that made it seem normal and right that women would secure bail for accused men. One of the bosses at A-Team, for example, regularly instructed agents to begin conversations with defendants by asking, “What’s mom’s name and number?” A common belief was that mothers would bail out their children and make sure they showed up for court. Grandmothers and long-term romantic partners were good targets as well; short-term girlfriends were avoided because their ties to defendants were considered tenuous.

The selection and pursuit of women as cosigners paralleled agents’ tendency to see and describe cosigners as babysitters for defendants—a strongly gendered role employed in the field as an occupational metaphor. In these ways and others, bail agents revealed an intuitive grasp of what Evelyn Nakano Glenn terms “the social organization of care”: the “systematic ways in which care for those who need it is allocated and how the responsibility for car-

ing labor is assigned” (2010, 6). Indeed, just as race and class intersect with gender in the social organization of care, these axes of inequality shape evaluations of women as potential cosigners. For agents, race and class categories (operating as racialized assumptions about class and class-inflected conceptions of race) function as rubrics for estimating financial resources and sizing up character, for judging, in ways large and small, whether a person is a good or bad risk. Thus, as the pecking order for desirable clients works through gender roles (for example, mother, wife, daughter), its gradations reflect cultural constructions of groups positioned according to race and class.

White women and middle-class women are typically seen as better bets in these regards, more likely to “be responsible” and have “good jobs.” Most agents adopt a view of group culture consistent with “underclass” narratives that portray the poor, racially segregated “ghetto” as a place where “social pathologies” proliferate as products of moral turpitude and dysfunctional norms (rather than social inequality and subjugation). Poor women of color therefore stand at the center of predatory bail targeting (due to the social composition of criminal defendants) but are also subjected to tougher scrutiny via race and class stereotypes. This profiling can have serious consequences. First, it raises the odds that defendants from race- and class-subjugated groups will be unable to bail out of jail—a fate far worse than a bail contract, however predatory its terms may be. Second, it raises the odds that bail will be offered to cosigners from subjugated groups only on riskier or more costly terms—for example, with higher premiums, stronger collateral requirements, and stricter payment conditions.

CARING OBLIGATIONS AND EMOTIONAL LABOR

Agents’ gendered expectations regarding cosigners are a social construction built around a real pattern of sex difference in the adoption of bail responsibilities. As the most frequent cosigners, women often express strong feelings of obligation to bail out defendants. In what might appear as straightforward business transactions, cosigners frequently see them-

selves (and are seen by others) as expressing loyalty and care by arranging premiums, agreeing to onerous contractual obligations, and taking responsibility for getting the defendant to court. Further, like many other forms of care work, the act of bailing someone out of jail is often seen as an effort to create the conditions needed for self-care. Locked behind bars, defendants are unable to meet many of their own physical-emotional needs and social obligations. Cosigning, in this sense, fosters conditions for others' autonomous action.

Still, decisions to cosign are rarely free from ambivalence. Many cosigners feel conflicted about helping the accused and find the bail process a highly emotional experience. Pressures to sign on the dotted line can raise hard questions about what one person owes another, who has done favors for whom in the past, which betrayals can be forgiven, and how much is too much to ask. The act of cosigning may restore long-severed ties to a defendant or rewrite the terms and expectations of an existing social relationship. Many clients become anxious when asked to sign for a bond, especially when former romantic partners worry they will become re-entangled with a defendant's life in unwanted ways.

In this anxious context, the caring dispositions of the cosigner are strategically matched by the bail agent's performance of various forms of "emotional labor" (Hochschild 2012). Seeking to close the deal, agents express kindness and understanding, appreciation for the cosigner's sacrifice. They listen to clients' concerns, offer reassurances, and convey information to allay uncertainties. Before and after the cosigning, the agent offers emotional support and finds ways to indicate that, in their own way, they also care. Although some agents are more adept at and invested in caring labor, all engage in it on occasion. Agents who come off

as uncaring, self-interested salespersons risk losing cases to more empathetic competitors. A-Team and its local competitors even strategically hired female agents, believing that as women they would connect emotionally with the mothers, girlfriends, and female friends of defendants. A-Team also retained and rewarded male agents who took pride in helping distraught clients. A few of Page's colleagues seemed to gain a sense of masculine honor, seeing their work as chivalry extended toward women in distress. Engaging in emotional labor helped them make a profit and, perhaps ironically, feel good as men.

To unpack these dynamics, an episode from the fieldwork is instructive. In Rocksville, agents attend first-appearance court for people charged with gross misdemeanors and felony crimes.⁴ The goal is to secure a client's business immediately after the judge has ruled on bail. To do so, agents typically engage in a strategic presentation of self, conveying that they are potential allies who "know the ropes" of the legal system and can help worried newcomers understand and navigate the pretrial process (Goffman 1959). After making first contact, agents may work with the defendant's family or friends for several days as they line up money for the premium and a qualified cosigner. It is not unusual for agents to "work a bond" for a week or more (and typically, the bigger the bail, the longer the process). The six days it took for Page to close this deal was par for the course.

At court one day, Page casually introduced himself to two Native American women, the long-term partner of a defendant and his mother. The defendant, Johnny, was charged with statutory rape (sex with a minor); the initial bail was set at \$100,000.⁵ The women seemed unfamiliar with the court process and appeared to have been crying. Page sat down

4. Agents in Rocksville rarely attend misdemeanor court because judges generally release low-level defendants with no or low financial bail.

5. In Rocksville, defendants receive an initial bail amount when the court charges them with a crime. At the first appearance (typically the following weekday), the judge considers the prosecutor's and defense attorney's bail arguments and then typically gives felony defendants a choice between unconditional bail (post a larger bail amount, remain law-abiding, and show up for court appearances) and a conditional bail (post a lower bail amount—or sometimes no money at all—and follow a set of conditions, such as checking in with a probation officer, submitting to drug tests, or avoiding locations).

and explained the proceedings. Striking an optimistic note, he remarked that judges typically lower bail as the process moves forward. Even though the women felt they could not afford the premium for such a high bail, there was still a chance they would be able to get Johnny out of jail.

Over the next hour and a half, they waited for the clerk to call Johnny's case. The session ended without the case being called, but Page had gotten valuable time to establish rapport and expertise. When, for instance, the prosecutor asked if anyone were present for a case that had not been called, Page advised Johnny's partner, Angie, to speak up. The prosecutor explained that Johnny had refused to come to court. Noting that defendants typically get one "pass," he said that if Johnny refused again, staff would probably bring him to court in restraints. As they left together, Angie told Page that Johnny might have refused to come to court because he felt too ashamed to face her. She agreed to meet the following afternoon before court, and Page encouraged her to call him with any questions in the meantime. When Angie replied, "I don't even know what questions to ask," Page assured her that he would try to help with any confusion.

Page's invitation to "call anytime" could easily be read as disingenuous. But by this point in the fieldwork, the offer was more reflexive, based on an intuitive feel for what was socially appropriate. True, the bail agent has financial incentives to provide emotional support; offering the "gift" of kindness and understanding, he or she hopes to receive the reciprocal gift of business.⁶ But the expression of care in this context cannot be reduced to a rational actor engaging in conscious dissembling for financial gain. As a bond agent, Page knew that friends and family members are often fearful and worried about defendants' well-being. They feel disoriented by the legal process and, in most cases, do not have a private attorney or public defender available to answer their questions. They do not know where else to turn. The bail agent appears in this unfamiliar and intimidating arena as a knowledgeable person who cares—a person who can and possibly will

help someone like Angie care for a loved one in jail.

For the agent, then, the strategic move for securing the client doubles as a humane and sympathetic response to someone in Angie's or Johnny's mother Shawna's position. Care and service are, in fact, highly valued elements of the bail agent's professional identity. To be sure, these values rest uneasily alongside other aspects of the agent's work life, such as the drive to beat out the competition and the agent's pride in being a "good closer." But as agents are socialized to win in the bail game, they are simultaneously immersed in a discourse of service and educated in the arts of care. Becoming attuned and responsive to the needs of potential cosigners is central to the development of the bail agent's occupational habitus—so much so that agents often describe themselves as part counselor.

The next day, Angie was alone when she met Page at court. She had visited Johnny the night before, and he told her he had refused to go to court because he was having a breakdown and was suicidal. She said he felt better after she met with him. Johnny had been having sex with a fifteen-year-old friend of their daughter, she explained, as a preface to insisting that she was not at court because of her feelings for Johnny. She was there "for the kids" she and Johnny co-parented. In Page's experience, it was not unusual for cosigners to feel they needed to justify bailing out a defendant. This need to offer *good reasons* for taking care of an accused person was especially common in cases such as Angie's, when the defendant is charged with a strongly stigmatized crime and in cases where the cosigner is the alleged victim (or victim's relative). Caring obligations thus supply what C. Wright Mills called a "vocabulary of motives"—a range of situationally acceptable bases for accounting for one's conduct (1940). Posting bail "for the kids" construes the situation in a way that remains squarely within the idiom of care but shifts the referent of care to "more deserving" actors. Angie wanted Page to know that her actions were a fulfillment of her duties as a mother, not an act of caring for a man who had had sex with a minor outside their relationship.

6. On the concept of gift exchange, see Mauss 1954.

When Angie and Page walked into court, they found the public defender talking with the prosecutor. Johnny would not be coming to court, the lawyers said, due to what sounded like a panic attack. (Because of his mental state, jail staff did not exercise their option to bring Johnny to court in restraints.) Angie and Page walked back to A-Team's office, where Angie described the difficulty of caring for her children while dealing with Johnny's situation. She was caught in a bind of competing care obligations. Slumping low in a chair, she became teary as she explained that Johnny had committed the crime on their anniversary and left her in a near-impossible situation. Page tried to comfort Angie. They agreed to meet at court again the following day.

On the third day, with Johnny's mother, Shawna, in attendance, Johnny showed up for court and his case was called soon after the session began. When the judge lowered Johnny's bail from \$100,000 without conditions to \$15,000 with conditions, Angie breathed a sigh of relief. Afterward, Page walked the women to their car, telling them that, in the short term, they would need "only" \$750 to post bail. They could pay off the remaining \$750 of the premium over the next couple months. Angie and Shawna hoped to get the money together quickly, Angie explained, because they feared Johnny's mental state would worsen the longer he stayed in jail. With a slightly guilty tone, Shawna said that even though her "baby" did the crime, she still loved him. The women thanked Page for his help and said they would be in touch soon.

Friday and Saturday passed without Angie calling or responding to Page's efforts to reach out. Late Sunday morning, when Angie finally took his call, she told him that she had been contacted by other bail companies. A competitor had offered to do the bail for \$750 (a 5 percent premium) with no payments. Bail companies in Rocksville are required to charge 10 percent, but as Page knew at this point in his fieldwork, agents routinely ignored the rule to beat out a competitor. Page got permission from his boss to match the lowest offer and did so immediately. Angie seemed relieved. With the price difference eliminated, she could take

the best deal and give Page the "gift" of her business in return for his help and support.

Angie's case reveals a number of dynamics common in the bail process. Significant others (most often, mothers and current or former partners) often feel obligated to take responsibility for defendants. Although Johnny's illegal actions harmed her, Angie felt she had to bail him out for the children. She felt duty-bound to visit Johnny, and Johnny's reported mental health breakdown seemed to intensify her sense that she needed to take care of his bail. Shawna, Johnny's mother, experienced less ambivalence than Angie. As a mother, she had to help her baby—full stop. Page worked to provide emotional and informational support so the women would eventually feel obligated to him rather than the competition. When Angie ultimately accepted Page's offer, she and Shawna lost \$750 and became subjects of the bail company. If Johnny missed court or accrued additional costs (if, for instance, A-Team had to send a bounty hunter after him), they would be financially responsible, and the company could access their personal information and subject their properties to search. In the words of Page's bosses, Angie and Shawna were babysitting Johnny as watchful coagents for the bail company, under surveillance themselves as they tended to the company's investment.

SELLING CARE

Friends and family are often less willing than Angie and Shawna to bail out defendants. Bail agents use a variety of strategies to override this reluctance. By describing jail conditions as horrible, dangerous, and unhealthy, for example, agents may ramp up fears and guilt pangs rooted in a perceived duty to care. Sheila, one of Page's coworkers, warned mothers that their daughters were locked up with "prostitutes, murderers, and thieves." Another agent, Sean, routinely told potential clients, "Listen, there's no jail worse than Rocksville County in the state. And I've been to all of them." It was a lie; he had never been inside Rocksville's lock up, let alone the rest of the state's. It was a scare tactic to induce a desire to care for the accused.

Agents also emphasized negative legal outcomes tied to a defendant remaining in jail.

Such defendants, for example, are more likely to take a plea bargain even if they are not guilty (a claim that academic research supports) and might look “more guilty” appearing in court in an orange jumpsuit rather than their own clothes. Freed from lockup, defendants can strategize with attorneys, contact witnesses, and aid their case in other ways. The bottom line, agents conveyed, was that if you really care about the defendant’s legal and personal fate—if you really want to take care of them in this awful situation—you will pay the premium and cosign the bond.

Like bail agents, some defendants instrumentalize duties-to-care to get reluctant family or friends to bail them out. Jail inmates routinely call bail companies asking agents to contact possible cosigners. The high cost of the jail’s call system makes it unaffordable for many defendants to make these contacts on their own, but bail companies typically allow detainees to call them for free. In such cases, defendants may explicitly ask agents to stress the negative consequences of remaining in jail—losing a job, not receiving medications, or getting victimized by prisoners or guards. Defendants hope agents convey their desperation and how their safety and hopes depend on the person receiving the call. The following description is taken from Page’s field notes:

I got to the office a little before 9 am and received a call from the local jail. The young woman, Annika, was charged with drug possession and her bail was \$5,000. She wanted to bail out and go to detox. Her voice shook and her breath was ragged. At her request, I called her mother, who was divorced from her father. When the mother didn’t pick up, I left a message. Annika called back around 11:15. Sounding slightly hopeful, she asked if I had reached her mother. When I said I hadn’t, she exhaled deeply and went silent. “Who else might be able to help?” I asked. She gave me her dad’s number, but her tone suggested that he was unlikely to bail her out. Then she had an idea: I should tell her dad that she needs to go to detox because she is pregnant. Confused and concerned, I responded, “He doesn’t know?” He didn’t, she

replied. “Do you really want me to be the one to tell him?” She said she had just found out and feared that her withdrawals would kill the baby. I agreed to call her dad, but didn’t commit to unveiling the news about the man’s future grandchild. A powerful combination of caffeine and anxiety sent my heart racing. Before dialing, I took several deep breaths and got a glass of water. When I reached the father, the man seemed to have expected the call and stated matter-of-factly, “I’m not bailing her out.” He’d done so several times in the past and his daughter had gone right back to using. I didn’t tell him about the pregnancy; in fact, I didn’t push at all. I simply thanked the man for his time.

This particular case led Page to reflect on his assumptions about gender and care as a participant in the field. He realized the extent to which he assumed that women (especially mothers, grandmothers, sisters, wives, and long-term partners) would be more open to bailing out defendants. Pushing the men with strategies agents used with women seemed unlikely to be productive, especially if men came across as masculine by acting aloof and disinterested or, like the father in the example, by plainly refusing to help. In the field, Page was rarely surprised when men (even fathers) felt no obligation to cosign a bail agreement. In fact, when men took up the burdens of cosigning, they were far more likely than women to act as if bailing out a friend or family member, especially a woman, was extraordinary. Such cases resonated with bail agents’ descriptions of cosigners as babysitters. Like fathers who earn praise for babysitting (rather than simply parenting) their own children, these men saw cosigning as going beyond the basic terms of their relationship to the defendant. That Page and his coworkers saw nothing surprising in this fact underscores how the men’s reluctance to cosign reflected shared understandings of the social organization of care. In this sense, many of the apparently deviating cases of men being recruited into the typically feminized role of cosigner are actually consistent with our broader claim: the social terrain on which bail agents operate is defined, in significant ways,

by the gendered structure of care relations in the broader society.

Another deviating case offers insight on this front. In a minority of cases, jailed defendants refrain from contacting a bond company because they do not want their loved ones to feel compelled to take care of their bail. Page learned this lesson while prospecting—an aggressive form of solicitation, common in Rocksville and strongly encouraged at A-Team, in which agents cold-call potential cosigners without defendants' knowledge or permission.⁷ Prospecting during an evening shift, Page reached a woman whose son, Paul, an African American in his mid-thirties, was accused of drunk driving. The mother worked full-time as a nurse's aide and agreed to pay the premium (\$600 down, \$600 in payments) and cosign Paul's \$12,000 bond.

About an hour later, Paul came to the office to fill out his paperwork. Page cheerfully greeted him at the door and offered bottled water and coffee. But, unlike most released defendants, Paul appeared dejected about getting bailed out. As he scanned the bail contract, he asked, "My mom came down, didn't she?" Perplexed by his unexpected release, Paul wondered aloud who in his circle had informed his mother about his situation. He had intentionally tried to keep her in the dark, though he knew she would help him. He was hoping the state would drop the charges; if not, he was confident he could handle the jail stay. He could do time, as he put it, "standing on his head." The last thing he wanted was for his mother to lose hundreds of dollars just because of his "bullshit case." When Paul found out that she had paid \$600 and still owed \$600, his frustration turned to sadness: "You have to be kidding me. This is what I feared." Because the deal was done, he reasoned, all he could do now was try to pay her back and "say thank you."

Although exceptional (defendants generally do not get upset when people bail them out), Paul's case is instructive. Paul clearly knows that his mother would feel a duty to take care of him by posting bail, even if it places her (and perhaps others she cares for) at risk. But his reciprocal sense of the caring relationship—he needs to look out for her well-being, too—leads him to strategically withhold information and try to bear his legal entanglement alone. Both sides of this story suggest a working knowledge of the gendered care structure of the social situation. Paul's actions also fit comfortably into a broader societal pattern in which the unwillingness to accept maternal care sometimes functions as a way of declaring one's full status as an independent, respectable adult—or, in more gendered terms, as a means for declaring, "I am a man, capable of taking care of myself without calling my mother to the scene."

ENGENDERING PREDATION

Drawing on this immersive ethnography, we have sought to clarify how relations and practices in the bail field are structured by the broader social organization of care in American society. Bail agents, cosigners, and defendants intuitively grasp this aspect of the social landscape, which underlies their dispositions to act as they do. Women are positioned as primary caregivers in the broader society so, accordingly, players in the bail game look to women first. To be sure, few women pay bail premiums and cosign bond contracts routinely in their daily caregiving. But beneath the distinctive circumstances, gendered caring relations—in this case, women stepping forward to bear the burdens of men's bail needs—operate in a manner that seems ordinary to all involved. Signing forms and making payments at the bail office, women's actions slot into the social organiza-

7. Prospecting works like this: When individuals are arrested, the county publishes their name, birthday, and reason for arrest online. When a defendant is charged and initial bail is set, this information is also made public on some (though not all) counties' websites. Bail agents monitor the county's electronic jail roster for prospective clients. When they find good leads, they enter the defendant's name and birthday into a proprietary software program that retrieves contact information for the defendant and his or her family members. Bail companies pay the for-profit software provider a small fee for each search. Agents then call the contacts and "offer" to bail out their friend or family member.

tion of care as well as their personal experience of caregiving duties.⁸

Bail agents strategically target women, expecting that they will feel obligated to care for defendants, and present themselves as caring allies in that effort. By performing various forms of emotional labor—whether offering understanding, patience, and reassurance or providing information and help within a system that often feels dehumanizing and painfully opaque—bond agents try to forge a connection with potential clients, cultivating a sense of reciprocal obligations. When potential clients are reluctant to sign on the dotted line, agents work to leverage whatever care obligations they may feel. Defendants, desperate to get out of jail, may collaborate with bond agents in these instrumental efforts. Woven throughout the fabric of the bail game, gendered ethics of care go a long way toward explaining sex differences in the distribution of cosigning burdens as well as the social processes that advance resource extraction in the bail industry.

We have sought to clarify how gender plays a central role in organizing and facilitating predatory criminal justice practices that are typically (and correctly) understood as being guided by race and class. As we have noted from the outset, however, these complementary axes of social differentiation and power should not be treated as alternative explanations. The gender basis of the bail field cannot be understood outside its intersections with race and class—social structures so central to the criminal justice field in the United States (Western 2006; Soss and Weaver 2017), including its predatory practices of financial extraction (Page and Soss 2017). Low-income people of color are dramatically overrepresented among defendants and, thus, are disproportionately compelled to use the services of bail bond companies. As women are pulled into the bail process, race and class matter greatly in agents' evaluations of which cases to pursue and what terms to offer. Preda-

tory financial extraction in the bail industry today is intersectional, in part, because care duties in American society are intersectionally organized.

At a methodological level, we hope to have underscored the value of ethnography as part of a broader, pluralistic mix of approaches to studying inequality and the criminal justice system. To analyze how the bail industry works and how its practices reflect and reinforce inequalities, a researcher must go inside it. By inserting oneself into the situation, one can thus see how social inequalities structure understandings, relations, decisions, and actions and how institutional incentives and role-based obligations interact in ways that connect social disadvantage to predation. As a participant observer at A-Team, Page was able to see how elements of race, gender, class, national origin, and place of residence infused organizational culture and shaped agents' dispositions in ways that influenced perceptions of risk and worthiness, and, ultimately, financial, social, and legal outcomes. In short, this study reinforces what other scholars of punishment and society have repeatedly shown: ethnography is a critical tool for analyzing inequalities in the criminal justice system, including those related to "spillover effects" and "collateral consequences" (see also Comfort 2008; Lopez-Aguado 2016).

Drawing on the ethnography, we have also sought to clarify how the bail industry operates as a predation opportunity structure in motion. By tracing its logic of practice, we have arrived at a view of targeting that departs somewhat from the norm in scholarly literature. In most studies, the focus of analysis follows the path defined by criminal charges and punishments: the primary targets of criminal justice practices are arrestees, defendants, prisoners, and so on; the people who surround those actors are seen as secondary targets experiencing collateral consequences and spillover effects. By shifting the analytic frame from punishment to predation and analyzing bail as a social process, we

8. In addition to caring for family, many potential cosigners also worked as personal care assistants (PCAs). Because of home-care workers' low socioeconomic status and the precariousness of their work, A-Team had an informal policy of not approving PCAs as sole cosigners. The existence of this policy is a clear indication that professional caregivers regularly volunteered to serve as cosigners.

have arrived at an analysis that decenters the defendant. The primary target in this field is not the defendant *per se* but those individuals (usually women) who possess the requisite resources and feelings of obligation to take care of the defendant.

In other words, although defendants provide the entry point for bail industry revenues, the primary targets of extraction are defined by the social organization of care relations in which the defendant is enmeshed. In some cases, such as Johnny's and Paul's, bail agents may not even speak with a defendant before bailing him or her out. In other cases, such as Annika's, the defendant (motivated by a desire to be freed from jail) may collaborate in the bail agent's efforts to secure a cosigner and their resources. Even when defendants contact bail companies directly, their main function in the process of bail is providing contact information for the industry's real customers: possible cosigners, preferably mothers or long-term partners.

The ethnographic approach taken here also yields important insights into the critical question of how criminal justice actors (in this case, bail agents) construct financial predation as a justifiable if not morally desirable practice (Harris 2016). Although interviews are useful for identifying legitimating discourses, participatory ethnography helps us understand actors' bodily investments in the game (Wacquant 2004). Fierce competition inside and outside of bail companies promotes a strong desire among bail agents to "win." This pushes agents to sidestep questions about morality to aggressively solicit business. But Page's experience as a bail agent also made clear that actors in the bail industry routinely consider questions about the legitimacy and value of their work. They do not unquestioningly embrace a mythos offering a sanitized and idealized vision divorced from their real work. On the contrary, their legitimation is more often rooted in the concrete realities of practice, in which bail agents care for the needs of confused and fearful clients and provide services that clients often receive with gratitude.

As they perform emotional labor, agents come to feel that they are, in fact, valuable service providers helping clients through difficult

times—even as they simultaneously work to devise the best strategies to extract revenues from them (Page 2017a). Care and competition are inseparable. In this area as elsewhere in the bail field, gender can play an important role: Page's male coworkers sometimes portrayed themselves as honorable, even chivalrous, as they shepherded distressed women—sometimes women distressed by the discourse those agents offered—through the cosigning process.

Finally, building on Comfort's work, our analysis has highlighted how predation shapes people's social positions, self-conceptions, behaviors, and relationships (Comfort 2008). As reports from advocacy groups such as Color of Change and the ACLU show (2017), commercial bail strips wealth from individuals and communities, especially low-income communities of color. In addition to these systematic "takings," for-profit bail moves defendants and cosigners into positions of debt with regard to bail companies and, potentially, collection agencies. As Alexis Harris shows, criminal justice debt generates stress and may alter behaviors, such as avoidance of legal and social service professionals and institutions (2016). In addition, because bail processes produce new relationships between cosigners and legal and quasi-legal institutions, they can recast the terms of existing relationships, especially between defendants and those who bail them out, reconnecting cosigners to defendants in ways they would not otherwise choose and generating new social obligations and expectations. By making cosigners responsible for monitoring and delivering defendants, the bail process also infuses social relationships with new dynamics of surveillance and social control.

In contemplating these sorts of social dynamics on the ground, it is essential not to lose sight of the ultimate beneficiaries and drivers of commercial bail. Bail companies and their agents are on the frontlines of an industry that delivers vast, reliable profits to sureties every year. To be sure, governments that enable this predatory business model benefit from the bail system, and the owners of some local bail businesses do quite well. But the basic structure of the industry serves to transfer wealth from the lower to the higher levels of social class. The bail industry extracts millions of dollars in re-

sources from lower-income communities of color each year and enhances corporate wealth. What has rarely been noted, even by the strongest critics of commercial bail, is the extent to which this industry operates through and is made possible by the social organization of care and its gendered production of caring obligations, expectations, and dispositions.

A NOTE ON METHODOLOGY

Our analysis of bail takes the form of an extended case study. The core of the study is an institutional ethnography based on Page's participant observation as a bail bond agent. Unlike other methods of data gathering, participant observation allows the researcher to "participate in the action being studied . . . [to produce] the most direct evidence on action as the action unfolds in everyday life" (Lichterman 2002, 120–21). As a longitudinal method pursued across varied contexts, ethnography allows the researcher to compare words and deeds and to empirically investigate why statements, attitudes, and practices vary from one setting or group of actors to another (Wedeen 2009; Jerolmack and Khan 2014). Participatory ethnography allows scholars to "observe how people make sense of their worlds, to chart how they ground their ideas in everyday practices and administrative routines" (Wedeen 2009, 85). Through immersion in the field, the researcher learns (and in various ways, embodies) the cognitive, emotional, and discursive conditions of participation in the activity under investigation (Goffman 1989; Wacquant 2004).

As a participant, Page directly experienced the rules and norms, identities and ideals, and workplace pressures that define and organize bail agents' practices. As an observer, he benefited from long-term investments in watching, listening, and asking while positioned as a co-participant in work activities as they transpired. On occasion, of course, the people he interacted with may have worried about the impression they were making; they may have had incentives to dissemble or make self-serving statements. Over the long haul, however, it is difficult for a loose collection of workers to sustain a misleading self-presentation at all times

and places, coordinating a sham around the researcher for more than a year while pursuing the work needed to get their jobs done. At the same time, the slow building of trust and rapport made possible by this method are especially valuable for studies of stigmatized fields, such as commercial bail, in which actors may fear reinforcing negative images of their profession (Goldfarb 1965; Dill 1975; Davis 1984; Page 2017a). As Page became a familiar coworker at A-Team, the noteworthy introduction of a distinctive outsider gave way to the unremarkable routines, conversations, and friendships of the everyday workplace.

Sustained immersion also allows the researcher to experience and analyze the field from varied perspectives over the course of the study. As a standpoint for understanding commercial bail, the courtroom offered opportunities the office did not. Moreover, night shifts differed from day shifts, conversations with lawyers and fellow bail agents painted varied portraits, and so on. And because A-Team typically processed more than one hundred bails each month, Page had repeated opportunities to separate case-specific details and agent-specific styles from organizational routines, standard operating procedures, and the underlying logic of practice—that is, largely taken-for-granted dispositions that generate patterns of action (Bourdieu and Wacquant 1992; Wedeen 2009). Page's growing familiarity with bail work also meant that his standpoint on social action changed in productive ways over time.⁹

Although Page conducted his research at a single local bail company, we analyze it here as a case of a broader class of phenomena. Our "casing" of the study works at two levels. At one, we analyze A-Team's work in Rocksville as a concrete, particular instance of commercial bail practices in the United States. At a second level, we analyze commercial bail as a case of the more general practice of criminal justice predation. Money bail is a mode of resource extraction that differs from others (such as prison profiteering, asset forfeiture, or fines and fees) in many ways but nonetheless can be seen as integral to the broader whole, enmeshed with its other operations, and struc-

9. On the complementary advantages of strangeness and familiarity in field research, see Soss 2013, 137.

tured by its general logics of targeting and operation.

A-Team is a professional, well-managed, successful company, selected as a research site, in part, because it is not a deviating “bad actor” or unusually predatory operation. Informal conversations and formal interviews in the field; industry, media, and governmental reports; and direct observations all corroborated that A-Team is not fundamentally different from other bail companies in large urban counties. A-Team and Rocksville, however, should not be mistaken for a representative case of commercial bail in the sense that a statistical sample may be representative of a broader population. In an extended case study, the relationship between the general and the particular works in a different way. Rather than standing in for other local bail operations, A-Team’s business operations provide a vantage point for analyzing the more general structures and forces that shape local bail businesses across the United States as a whole. Our analysis illuminates a concrete case of organized actors navigating and grappling with the general conditions of the industry—a goal quite different from providing sample-based estimates of population characteristics.

Thus, as Michael Burawoy explains, “The importance of the single case lies in what it tells us about [a theoretically and practically significant aspect of] society as a whole rather than about the population of similar cases” (2009, 281). In an extended case study, “researchers analyze a particular social situation in relation to the broader social forces shaping it” (Small 2009, 19). Seeking analytic rather than statistical generalization, “the researcher ‘extends’ his [or her] view of a case by theorizing it as a very specific instance of social and cultural structures or institutional forces at work. . . . In the extended case method, we want to learn, ultimately, ‘how’ institutional forces, social and cultural structures, shape action in our particular field sites” (Lichterman 2002, 123). Our goal, then, is to use A-Team’s operations in Rocksville to advance theoretical understandings of how predatory relations and

practices work in and around criminal justice institutions and how they reflect and perpetuate social inequalities.

ON THE ETHICS OF ETHNOGRAPHIC BAIL RESEARCH

A study based on direct participation in the bail industry unavoidably raises questions of research ethics. After all, we argue that commercial bail operations prey on subjugated communities, leveraging the needs and vulnerabilities created by pretrial processes to turn poor people’s resources into corporate and governmental revenues. Was it ethical for Page to pursue research by participating as a bail agent at A-Team? A full discussion of the relevant considerations would require far more space than we have here. We have given extensive thought to these questions, however, and take this opportunity to offer some brief comments on the ethics of ethnographic bail research.

Ethnography, by definition, is a form of participation in social life. As such, it shares the ethical complexity of all social action. It is understandable that researchers and their home institutions are often eager to draw a bright line between ethical and unethical research, positioning themselves on the legally and morally pure side of the divide. Ethically speaking, however, participation in social life is rarely such a black-and-white affair. Any given social role or action—as a consumer, worker, citizen, parent, friend, and so on—will raise moral and ethical questions along multiple dimensions, each of which may be judged differently from the vantage point of different moral philosophies.¹⁰ Moreover, as a large literature on “bystanders to injustice” makes clear, a decision to stay on the sidelines, declining to get involved, is not in any universal sense a more ethical or moral position than direct participation. Like passive beneficiaries of collective injustices and citizens who do not vote in the face of government atrocities, scholars do not necessarily occupy higher moral ground simply by declining to get involved.

In this sense, we reject the presumption that by not doing this kind of research, we

10. For a classic discussion of the diverse and historically shifting moral standpoints used to assess the ethics of social action, see MacIntyre 2003.

scholars can keep our hands clean. As we argue here and in a larger book-length project,¹¹ predatory resource extraction from subjugated communities subsidizes both the liberal contract society and the quality of life that more advantaged Americans enjoy. People who benefit from these practices cannot shed responsibility for them simply by declining to go out and do the bond work (or prison work or policing work) themselves. Those of us who neither work in nor are targeted by the industry are not nonparticipants; we simply participate on terms that allow us to benefit while maintaining cognitive distance from our moral responsibility.¹²

Page made his participation in (and responsibility for) criminal justice predation more explicit and direct in order to bring the industry's practices to public light and show how this form of predation is made possible, sustained, organized, legitimated, and carried out on the frontlines. The research intervention reflects ethical and political commitments to *doing something* about the predatory bail industry's ongoing invisibility in scholarship and the broader society. Page took on the ethical burdens of overt participation because this was the only way to really understand the work itself—and thus, to develop an analysis of how it is organized, carried out, and can be effectively reformed or abolished. Fully understanding the industry meant engaging in its core practices, which are by definition predatory, and work in the field provided a foundation for critical scholarly and public interventions.¹³

If Page had stayed on the sidelines and we had forgone this research, the bail industry would have been no less predatory; the distribution of its harms would have been altered in no meaningful way; and our responsibility for industry's harms, though certainly less visible and direct, would have remained. Sometimes ethically complex research—inserting our-

selves in troubling modes of action in a more overt way—should be pursued precisely because it offers a way to take responsibility for societal injustices that are already being carried out in our name and already delivering benefits to us as more advantaged members of a community.¹⁴

No mechanical cost-benefit formula can generate a summary yes-or-no ethical verdict on this research. The procedure-centered judgments of the University of Minnesota's Institutional Review Board, which approved this “human subjects” research as ethical, also should not be seen as the final word on the multiple, complex moral questions involved. In a bail ethnography as in much of social life, participation is a subject that must be wrestled with in light of the real (not ideal) conditions we confront, the many morally relevant aspects of a single social action, and the diversity of ethical perspectives that may be brought to bear. To do so effectively, we must openly acknowledge that the predatory bail industry presents us with no easy answers as we try, both as scholars and community members, to understand how it works, explain what it does, and pursue effective actions in response.

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11. Joshua Page and Joe Soss, *Preying on the Poor: Criminal Justice as Revenue Racket* (under contract, University of Chicago Press).

12. For insight on collective responsibility and cognitive distancing (or “ignorance”), see Hayward 2017.

13. This article offers a scholarly intervention. For a more public intervention, see Page 2017b.

14. For closely related arguments regarding the ethics of ethnographic research that required participation in the violence of slaughterhouse work, see Pachirat 2013, especially chapter 6.

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