

The Dallas Morning News  
July 3, 2011 Sunday

## **Bail bondsmen owe county \$35 million**

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Giant billboards dot the streets around Dallas County's jail, from bail bond companies advertising around-the-clock help.

But some in the industry haven't been as diligent when the criminal suspects they've gotten out of jail fail to show for court, and judges order their bonds forfeited to the county.

Bail bondsmen owe Dallas County at least \$35 million in uncollected default judgments, many dating back decades, based on a review of records by *The Dallas Morning News*.

The county has done little to recover the debt, hampered by outdated computers, poor oversight and a lack of coordination among departments.

Some county leaders said they had no idea so much money was in play. Others acknowledged they have no easy system to track unpaid bonds.

"Our bond forfeiture desk is like 1981," District Clerk Gary Fitzsimmons said of the outdated computer technology.

Even the county board that regulates bail bond licensing has rarely taken disciplinary action in recent years. County staffers don't always notify the board's investigator of those in default. And the board's chairman said that while it can revoke bond-writing privileges, it has no power to collect from those who owe money.

Despite the millions due to taxpayers, the board has not revoked any bail bondsman's license for nonpayment in recent years.

That board drew attention last week after *The News* reported that one of its members, Dallas County Commissioner John Wiley Price, bought two vacant lots last year from a lawyer active in the bail bond business. The FBI seized Price's financial records Monday as part of an unspecified federal investigation. Price did not return a call seeking comment about the county's bond forfeiture debt.

Bail bondsmen play a critical role in the criminal justice system. Dallas County has 39 licensed bail bond companies and 162 attorneys licensed to write bonds. All total, there was more than \$281 million in 82,000 active bonds as of the end of June, records show.

People who are arrested post bond to get out of jail as their cases move forward. They pay bondsmen usually 10 percent of the bond amount set by a judge. The bond is a guarantee they'll show up for court dates.

If they don't, an arrest warrant is issued and a judge forfeits the bond, meaning the bail bond company must pay the county the full amount.

But many have failed to do so, based on *The News'* review, which also found that:

Bond forfeiture money, which goes into the county's general fund, has been falling over the years, even as felony case filings have gone up.

Dallas County gets significantly less revenue from bail bonds that judges order forfeited than does its smaller neighbor, Tarrant County. Fitzsimmons, the district clerk, said it may stem in part from judges deciding to nullify more bond forfeiture cases.

The total amount of forfeited bonds by companies and attorneys has been growing by more than six figures each year - this at a time when the county is making deep cuts to close its budget deficit.

Dallas County District Attorney Craig Watkins, a former bail bondsman whose job it is now to seek forfeiture judgments in civil cases against bail bond companies whose clients have absconded, declined to respond to questions from *The News*. Unlike the Harris County district attorney in Houston, Watkins' office apparently does not have written procedures on how to handle bond forfeiture cases.

Two of the county commissioners, Mike Cantrell and Maurine Dickey, said that they weren't aware so much money has been left uncollected, and that it's an issue that needs immediate scrutiny.

Critics of the commercial bail bond industry say problems in Dallas County and elsewhere are largely because of weak oversight.

"This is essentially an unregulated enterprise that holds public safety in jeopardy," said Tim Murray, executive director of the Pretrial Justice Institute in Washington, which favors alternatives to commercial bail bonds.

"Companies that have contracted with governments apparently feel no real need to live up to their obligations," he said.

The result, Murray said, is that bondsmen in default are not held accountable, and in some cases, the accused criminals who skipped trial are running free.

Randy Adler, a Dallas lawyer and a director of the Professional Bondsmen of Texas, said there are adequate regulations in the law and those who write bonds try to meet their obligations.

"The taxpayers should be rest assured that judgments will be paid," he said.

### **Filing appeals**

Forfeited bonds are supposed to be paid no later than 31 days after a judge's final decision. But some bondsmen routinely get more time to find fugitives by filing appeals, which can make it more difficult to track cases and unpaid bonds.

For example, Derron Livingston, 23, of Dallas missed his March 2007 court date on a felony burglary charge, resulting in a forfeiture judgment three months later against David's Bail Bonds, which had posted the \$1,500 bond.

But bondsman David Wells filed a motion for a new trial in the forfeiture case. A judge denied it. Wells filed another motion, asking the judge to reconsider. The judge did not. Wells then filed an appeal, even though Livingston still was on the loose, according to the court file.

The appeals court dismissed the appeal, more than two years after Livingston's missed court appearance. Wells should then have paid the forfeited bond.

But that company is no longer in business.

The insurance company that underwrote his bonds, Allegheny Casualty Co. of Pennsylvania, is still obligated to pay the judgment but hadn't done so as of May, according to records and county officials.

Ken Good, a company attorney, did not respond to an email or phone call seeking comment.

The county has the ability to seize cash that bondsmen and attorneys deposit with the county as collateral. It also can try to take property owned by bondsmen or the insurance companies that underwrite their bonds using civil papers, although Texas law makes that difficult.

The county has issued about 60 such papers, called writs of execution, since 2007, records show. But county audit reports indicate that not all unpaid forfeitures had writs issued.

### **County board**

Dallas, like other large Texas counties, has a bail bond board that licenses bondsmen. But the 12-member board doesn't routinely ask for or receive any monthly or annual reports during meetings - as some counties do - on collections, outstanding bonds, active forfeiture cases or the companies' total bonding power.

Darryl Thomas, the sheriff's chief financial officer and the board's chairman, said it has no authority or recourse to go after money that's owed.

All the board can do is shut down licensees' ability to write more bonds if the board learns that they owe unpaid forfeitures.

"If bond companies want to stay in business, they'll figure out a way to take care of it," Thomas said.

But that is the crux of the problem in Dallas County: The board says it can yank the license of a company that hasn't paid, but the departments responsible for tracking bond forfeiture cases don't always alert the board investigator about those who are delinquent.

The board has not revoked a license for nonpayment in recent memory, said its lone investigator, Sheriff's Deputy Scott Jones. Normally, suspensions and revocations occur because of misconduct complaints.

"We enforce things that are brought to us," Jones said.

Fitzsimmons, the district clerk who collects felony court fines and fees, and John Warren, the county clerk who does that in misdemeanor courts, said their computers are not able to track forfeiture cases to determine if all judgments are paid.

The county uses two different systems - an antiquated mainframe to record payments and a newer Web-based system to list court activities, such as motions and orders. But the two computer systems aren't linked.

As a result, low-paid clerks must track forfeiture cases manually by writing down payment due dates and making "courtesy" phone calls to bail bond companies when the amounts come due.

County officials say a new Web-based case management system for the criminal courts will be able to track outstanding bond forfeitures.

But the first phase of the project is at least a year away, they say.

Cantrell, the commissioner, said better computers would help, but that doesn't absolve managers from the responsibility of collecting overdue bond payments.

Forfeiture cases now are handled by several departments, each headed by an elected official: the sheriff, district attorney, county clerk, district clerk and the 28 criminal court judges.

Each handles its own piece of the process and then hands it off to the next. But apparently no person or department within Dallas County government oversees the broad picture, keeping statistics, tracking outcomes or studying the effectiveness of its procedures.

No one contacted by *The News*, for example, could provide the county's bail bond forfeiture rate or any statistics of bail bonds written over the years.

### **Mounting debt**

*The News*, checking audit reports, determined that bondsmen owe at least \$35 million from the felony and misdemeanor court cases. The bulk of that debt is more than a decade old.

Much of that probably never will be collected, in some cases because the bondsmen have gone out of business.

And the unpaid pool continues to grow. The 2008 fiscal year accounted for more than \$317,000 in unpaid forfeitures, records show.

As the uncollected total balloons, bond forfeiture revenue coming in continues to fall.

In the felony courts, it has fallen almost every year since 2002, plummeting last year to a low of \$184,746. That's an 80 percent drop from 2002 when the county got \$935,737 in bond forfeitures.

Tarrant County, by contrast, brought in \$889,403 last year from felony forfeiture cases, a 20 percent jump from 2007, the latest available numbers.

Milene Cooper of Ace Bail Bonds, who represents bondsmen on the county's bail bond board, said she believes forfeiture revenue is down because fewer accused criminals can afford to bond out of jail. She said the recession has cut her business in half.

Adler, the industry director, said a change in state law in 2003 has dampened bond forfeiture revenue. Bondsmen now have more time (nine months in felony court and six months in misdemeanor court) to find those who missed court before being made to pay.

Judges have the authority to set aside their forfeiture judgments. Sometimes, a defendant has a good excuse for missing a court date, such as a family emergency.

But Fitzsimmons said he's seen an apparent increase in judgments set aside in recent years, although he did not have specifics.

Judge Don Adams, who presides over the felony courts, said he hasn't noticed that.

"I will set them aside occasionally," he said. But he said he won't do so if the accused criminal is still missing a month after his or her no-show in court.

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## **AT A GLANCE**

Two ways to write bonds in Texas

Bondsmen can act as agents for insurance companies known as sureties, which back their bonds.

Limits: Agents can essentially write an unlimited number of bonds.

Who pays: The sureties are ultimately responsible for paying forfeiture judgments. County officials pointed to only one case in recent history in which an insurance company went out of business and couldn't pay up.

Bondsmen can post collateral, either cash or real estate.

Limits: In Texas, they can write 10 times the amount of their collateral. So if bondsmen deposit \$10,000 worth of cash or property with the county, they can write up to \$100,000 in bonds.

Who pays: If a bondsman whose bonds are backed by collateral has several large forfeiture judgments he can't pay, the county's only recourse is to take the collateral. The

rest of the debt - which can be sizable - is beyond the county's reach unless it elects to sue the bondsman, which is rare.

The county also can place a lien on a bondsman's property to collect, but state law greatly limits the type of property that can be seized to satisfy legal judgments.

Who's on the county board?

The Dallas County Bail Bond Board, which regulates the local industry, is made up of the following members:

Darryl Thomas, chairman, appointed by the sheriff

County Judge Clay Jenkins

County Commissioner John Wiley Price

Larissa Roeder, appointed by the district attorney

Judge Carter Thompson

Judge Etta Mullin

Justice of the Peace Steven Seider

Virginia Etherly, appointed by the district clerk

Deborah Robison, appointed by the county treasurer

Milene Cooper, bail bondsmen's representative

Victor Lander, city of Dallas administrative judge

Chris Koustoubardis, criminal defense attorneys' representative

### **Bail bonding in Texas**

1. A person is arrested and booked into jail.
2. A judge sets the suspect's bond amount.
3. The defendant puts up cash in the amount of the bond to be released from jail until his trial. Or he contracts with a bail bond company or attorney who is licensed to write bonds.
4. The defendant pays the bondsman an up-front sum, usually 10 percent of the face value of the bond. The bondsman keeps that fee regardless of the outcome and posts the bond with the county to guarantee his client will appear for future court dates.
5. If the defendant shows up for all his court dates and his case ends in a conviction, acquittal or dismissal, the bond is discharged.

6. If the defendant misses a court date, the judge forfeits the bond in a separate civil action prosecuted by the state against the bondsman.
7. If the defendant doesn't appear in court within 270 days of the missed court date in felony court, or 180 days in misdemeanor court, the forfeiture judgment becomes final and the bondsman has 31 days to pay the entire amount of the bond to the county.
8. If the defendant shows up within the statutory grace period allowed, the forfeiture case goes away and the bondsman may or may not owe the county court costs.
9. If the bondsman doesn't pay the forfeiture judgment against him, the county can suspend his ability to write new bonds until he does. The county also can take civil action to collect the money by placing a lien on his property.

*NOTE: This example portrays basic scenarios for the purpose of explanation. Many different variations and outcomes can occur with bond forfeiture cases.*