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What Are The Qualifications For Bounty Hunters In California? As Required in Chapter 166 Statutes of 2004, Assemblymember Spitzer

*By Marcus Nieto,
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I. EXECUTIVE SUMMARY

The image of a “bounty hunter” bringing to justice a runaway fugitive is often glorified in the media and by the movie industry. Bounty hunters are depicted as “maverick” law enforcers who operate on the fringe of the criminal justice system to capture the most wanted criminals, in exchange for a reward. However, critics maintain that loose state regulations foster abuse by bounty hunters, allowing them to act more like outlaws they pursue than like law enforcers.¹ Why do bounty hunters have such broad authority to operate? What are their qualifications? What is their relationship to the American criminal justice system? How do they operate in California and what is the impact of the recently enacted Bail Fugitive Recovery Persons Act?^{*} These are the issues considered in this report, which was mandated by AB 2238 (*Chapter 166, Statutes of 2004*), authored by Assemblymember Spitzer.

Bounty hunters can be defined broadly as a category of persons who earn their living by tracking down someone or something for money. The standard fee is ten percent of the face value of the bond or surety (security against loss or damage).² A bail bond is a fee posted by a person (bail agent) to ensure that an accused person appears in court on a certain date while he or she remains free. If the accused person fails to appear at his or her court date, the bail agent posting the bond can call upon the bounty hunter to retrieve this person. In contrast, a reward compensates a single service that is performed only once, such as in the capture of a fugitive.

On a national level, bail bonds persons and their bail fugitive recovery agents have sweeping powers, in some cases greater than those granted the police, under an 1875 U.S. Supreme Court ruling.[±] In every state where bail bonding is legal (only Wisconsin, Oregon, Illinois, and Kentucky outlaw commercial bonding and bounty hunting), bounty hunters, unlike the police, do not need a warrant to search a suspect’s home or to apprehend a suspect across state lines.

States which allow bounty hunters regulate them differently. Some require that bounty hunters obtain a state-issued license, while most others require a credential certification process. There are no professional standards, for example requiring a college degree to perform this work. Congressional attempts during the 106th and 109th sessions to legislate bounty hunter licensing or certification requirements, similar to what many states have enacted failed primarily because of concerns over proposed civil and criminal liability provisions.³

* “Bounty hunter” is the popular name for a bail fugitive recovery person. The Bail Fugitive Recovery Persons Act, *California Penal Code Section 1299*, defines a bail fugitive recovery person as, “A person who is provided written authorization pursuant to *Section 1300* and *1301* of the *Penal Code* by the bail or depositor of bail, and is contracted to investigate, surveil, locate, and arrest a bail fugitive for surrender to the appropriate court, jail, or police department.”

± In the 1875 case of *Taylor v. Taintor*, the U.S. Supreme Court upheld an earlier New York ruling that defined the accused, even if out on bail, as having only the very limited rights of the imprisoned, and found that the bondman posting the guarantee and their associated bounty hunters had great authority in defining those rights.

In the late 1990s, some California lawmakers began to express concern about the practices of bounty hunters, based on cases of out-of-state bounty hunters committing crimes, including attempted murder and kidnapping in the state.⁴ As a result, legislation was enacted (*Chapter 426, Statutes of 1999*), setting forth new requirements in the state Penal Code (*PC 1299*) for bounty hunters, including a new certification process. The official title is the “Bail Fugitive Recovery Persons Act.” The new individual and professional requirements, while not as stringent as in some other states, include the following:

- Complete 40 hours of training in a “power of arrest” course (*Penal Code Section 832*) certified by the Peace Officers Standards and Training (POST) as part of basic police cadet training, for educational purposes.
- Complete a 12 hour “bail law” class (*Insurance Code Section 1810.7*).
- Be at least 18 years old and have no felony record.
- Complete an eight-hour “power to arrest” course (*Business Code Section 7583.7*).
- Carry certificates of completion of the required courses while performing their duties.

In 2004, California lawmakers revisited the Act (*Chapter 166, Statutes of 2004*), requiring the California Research Bureau (CRB) to design and complete a study of the structure and implementation of the Bail Fugitive Recovery Act, including the new training requirements (*Penal Code Section 1299.14*), and whether they have improved the process for the recovery of fugitives from bail.

The CRB study presented in this report includes a review of all state agency policies and procedures involved in the training and certification process, and a survey of those individuals who are either employed by bail agents or act as independent contractors. Most (87 percent) of the individuals we identified as potential bail fugitive recovery persons in California did not participate in this survey for a number of reasons that are discussed later in this paper.* Of those who did respond, eighty percent work full-time in fugitive recovery. It is conceivable that many of the individuals who did not respond to the survey are part-timers. They may be less likely to take the required courses, and thus less inclined to respond to the survey. This seems to be a temporary occupation for a number of people.

In brief, the CRB review and survey found:

- The Department of Insurance is directly involved in licensing bail agents and issues certificates of completion for required coursework in bail law. The certificates are distributed by the Bail Resource Center and the California Bail Agents Association. However, neither the Department nor the bail organizations

* The CRB used several sources to identify potential respondents including a website directory (*FugitiveRecovery.com*), which contained names of bounty hunters working in California, the California Bail Agent’s Association, and other bail bond businesses engaged in recovery work in California.

oversee bail fugitive recovery persons, do not keep track of whether they have completed the bail law coursework, and do not maintain information about who the bail recovery persons are or how they operate.

- State agencies such as the Commission on Peace Officers Standards and Training (POST), the Department of Insurance, and the Department of Consumer Affairs (firearm certification) either directly approve the required curricula or coursework or certify those persons who do. While taking the POST course is the most important and time consuming requirement, the agency does not keep track or certify the candidates who take the course.
- A lack of state agency oversight of the course requirements is most evident in the way that the required training modules, such as “power of arrest” are offered by POST and implemented. While both law enforcement cadets and bail fugitive recovery candidates take the training course, bail fugitive recovery candidates are only required to take the 40 hour power of arrest coursework and not the remaining 22 hours of mostly firearm coursework. Only the school records department can certify that an individual took the required coursework and no documentation distinguishing them as bail fugitive recovery persons. On the other hand, POST must certify that the law enforcement candidates have passed the course, and regardless of where the course was taken, POST keeps records of the results. We found that it is not possible to tell how many bail fugitive recovery persons have taken the required course.
- The Department of Insurance (DOI) is also indirectly involved with the certification process. It licenses bail agents, who are responsible for approving the coursework used in the “bail law” class that bail fugitive recovery persons must attend. (Bail agents employ or contract bail fugitive recovery persons to apprehend bail fugitives.) The Department of Insurance does not keep records of who has completed the required coursework, or whether they were bail recovery persons.
- The State Judicial Council has no involvement in the certification or licensing process but does collect forfeited bond data. This data might allow us to gauge the extent of bail fugitive recovery in California. However, the Council’s financial data is not public and cannot distinguish between “bail skips,” which might involve a bail recovery person, and simple bail forfeitures involving driving offenses. Thus we are not able to gauge the number of individual’s who actually skip bail by not showing up in court.
- According to survey respondents, the literature, and anecdotal evidence, many individuals doing bail recovery work in California are experienced individuals who have been in the field as long, or longer, than the new law has been in effect (2000).
- Local law enforcement agencies do not have written protocols on how their officers should respond to a bail fugitive recovery person who is in the process of apprehending a bail fugitive. However, most local law enforcement agencies are

aware of the legal requirement that the bail fugitive recovery person notify them within six hours before an apprehension.

- The CRB survey of bail fugitive recovery persons found that many do not feel that the certification requirements are useful in their jobs. Most of the survey respondents contend that a licensing requirement would be better suited to establishing their professional legitimacy instead of carrying multiple documents of coursework certification. Many of the respondents also desire greater professionalism in their field, and believe it is necessary to receive greater respect from other criminal justice practitioners.
- The Department of Consumer Affairs, Bureau of Security and Investigative Services (BSIS), is responsible for certifying individuals who complete the security guard coursework, with the exception of a firearm training component necessary to carry an exposed weapon (*Penal Code § 1299.10*). Many bail fugitive recovery candidates, nonetheless, undertake the additional firearm training for a permit to carry an exposed weapon. A BSIS official interviewed for this study contends that the criteria used for the firearm course is designed for security guards and not bail fugitive recovery persons.
- *Penal Code Sections 12031 (k) and 1299.10* are ambiguous as to the rights of bail fugitive recovery persons to carry a firearm or an exposed weapon while pursuing a bail fugitive. While citizens including bail recovery persons have the right to carry a firearm when making an arrest, bail recovery agents are not listed among the occupations explicitly authorized to carry a firearm in *Penal Code § 12031 (k)*.

This report examines the relationship between bounty hunters and bail bonds persons, law enforcement, and the courts. It also discusses regulatory trends in other states relative to this industry, and presents data collected by the courts about the types of offenders that “jump bail.” Finally, we present the results of the CRB survey required by AB 2238.

II. THE ORIGINS OF BAIL LAW AND THE ROLE OF BAIL RECOVERY IN THE CRIMINAL JUSTICE SYSTEM

Bonding has a long history in Western systems of justice. A system of release that resembled the modern bail process began to be organized in England prior to 1000 AD. Due to the irregularities of the court system at that time, offenders would often have to spend long periods of time in jail awaiting trial. The horrible conditions of early English jails would, however, regularly kill the incarcerated defendant before a judge would be available to rule on the case.⁵ The *Habeas Corpus Act* (1678) gave power to a Magistrate (sheriff) to discharge a prisoner upon his or her promise to reappear.[♦] The sheriff would allow a third-party to post bail, as determined by the judge, to guarantee that the accused would appear at trial. This limited the time a defendant would spend in jail, and consequently exposure to disease and violence. In its earliest form, the third-party, or surety (person posting property), would be forced to take the place of the accused at the trial should the accused be unavailable. In later incarnations, the surety's property, rather than his or her freedom, would be forfeited to make amends for the offender's failure to appear.⁶

Bail as a practice in America evolved directly from the English system. As in England, the American system also included guarantees against imprisonment without informing the suspect of his crime. The Sixth Amendment to the U.S. Constitution, like the English *Habeas Corpus Act*, insures that when arrested, a person "be informed of the nature and cause of the accusation," thereby enabling him or her to demand bail if they have committed a bailable offense.⁷ The U.S. Constitution guarantees that excessive bail may not be employed to hold suspects who by law are entitled to bail.⁸ This Constitutional guarantee was further strengthened by Congress with the passage of the *Judicial Act of 1789 (Section 12)*, which made the right to bail almost absolute with the exception of capital cases where the judiciary retains the discretion to rule when needed.⁹

Early on, "bail jumpers" began using the American frontier as a means to escape the law, a possibility that generally did not exist in England. This new frontier also made it difficult for defendants to find sureties that the courts knew and considered trustworthy.¹⁰ Coupled with the fact that organized local law enforcement agencies in the American frontier were relatively few, the need for a new system of pretrial release emerged in the form of a commercial bond system.¹¹

U.S. courts developed a system that allowed defendants to pay for their pretrial release. If the defendant failed to appear for trial, he would forfeit the sum he paid. While many defendants could not afford to pay the full bail amount for release, most could afford to pay a fee to a bail bonds person, who then agreed to pay the full amount to the court.¹²

[♦] The English Habeas Corpus Act (1677) states, "A Magistrate shall discharge prisoners from their imprisonment taking their recognizance, with one or more surety or sureties, in any sum according to the magistrate's discretion, unless it shall appear that the party is committed for such matter or offenses for which by law the prisoner is not bailable."

Like a personal surety, the bail bonds person acted as a proxy for the state and had the power to recapture the defendant at anytime. If the defendant did not appear at trial, the money that the bail bonds person paid for the defendant's pretrial release would not be returned.¹³

With the availability of a vast American frontier, it was relatively easy for a desperate defendant to jump bail and remain lost to the bonds person. To combat this possibility, bail bonds persons began to rely on the bounty hunters to track down defendants who skipped bail. Bounty hunters were regarded by the courts as agents of the bonds person and therefore, had the same legal authority to recapture the defendant.¹⁴ Because bounty hunters are enforcing the contract between the fugitive and the bail bonds person, they are not subject to the same constitutional restrictions as a law enforcement official (such as entering a house without a search warrant).¹⁵

Two cases are most commonly cited as defining the rights of bail bonds agents and their employed bounty hunters to apprehended bail fugitives.

- In the 1810 case of *Nicolls v. Ingersol*, the New York Supreme Court held that the rights of the bailee were controlled by the agreement between him/herself and the bail bonds person and his/her agent. If the bonds person chooses to re-arrest, he/she could do so at any time and in any place just as a sheriff could enter another state to pursue an escaped prisoner, so can the bonds person or his/her agent.
- In the 1875 case of *Taylor v. Taintor*, the U.S. Supreme Court upheld the earlier New York ruling and opinioned that the accused, even if out of bail, had only the very limited rights of the imprisoned, and that the bonds person posting the guarantee and their associated bounty hunters had great authority in defining those rights. In reaching its decision, the Court summarized and approved the common law rules regarding bail bonds persons and bounty hunters:

When bail is given the principal is regarded as delivered to the custody of his sureties. Their dominion is a continuance of the original imprisonment. Whenever they choose to do so, they may seize him and deliver him up in their discharge; and if that cannot be done at once, they may imprison him at once. They may exercise their rights in person or by agent. They may pursue him into another state; may arrest him on the Sabbath; and if necessary, may break and enter his house for that purpose. The seizure is not made by virtue of new process. None is needed. It is likened to the re-arrest by the sheriff of an escaped prisoner... ♦

♦ The foundation for bounty hunter rights in the United States was established in the 1872 case of *Taylor v. Taintor*, 83 U.S. (16 Wall.) 366, 21 L. Ed. 287 (1872): "Where one charged with crime is released upon bail, he is regarded as being delivered to custody of his sureties. Their dominion is a continuance of the original imprisonment." This U.S. Supreme Court decision has never been overruled.

II. DISTINGUISHING THE BAIL PROCESS AND TYPES OF BAIL FROM THE BAIL RECOVERY PROCESS

There are two primary roles in the modern bail process. While their names are similar, their tasks, duties, and responsibilities differ greatly. The bail bonds person or agent is the central figure to the bail process in the United States. The bounty hunter, or bail fugitive recovery person, is employed by the bail bonds person to find fugitives who absconded, and return them to jail before bail is forfeited.

Once a person is arrested on a criminal charge, the process of booking generally involves the following:

- Recording of the suspect's personal information (e.g. name, physical description)
- Description of and information about the crime committed
- Criminal background search of the suspect
- Fingerprinting, "mug-shots," and full body search of person and belongings
- Confiscation of personal property
- Placement of the suspect in the local jail or holding cell

If the charges are not serious, a substantial number of defendants are released on their own recognizance to await a trial date. However, if the charges are serious, the accused may be held over in detention for a bail hearing. A bail hearing is a court hearing, usually held soon after the initial arrest to determine whether the prisoner will be detained in a custody facility pending trial or released, often with some conditions imposed. It is at this point in the proceeding that the relationship between the bail process and the criminal justice system begins. The bail agent or bail bonds person will, for a fee, post (bond) bail for an accused person who cannot afford to pay the full amount ordered by the court for release. Bail agents are under no legal obligation to post bond for the accused, because that if that person flees the city or area and fails to show for trial, it is the bail agent's property that is forfeited. The bond agent works with the court and law enforcement in order to identify those offenders who are good candidates for release but who lack the resources for release.¹⁶

The bounty hunter (bail enforcement agent, bail fugitive recovery person, etc.) is responsible for finding that relatively small number of bonded individuals who have failed to appear for their appointed court time and returning them to the justice authority prior to the forfeiture of the bond guaranteed by the bond agency. The Professional Bail Agents of the United States indicate that less than one percent of those persons under bail control do not return to court.¹⁷

Courts have granted bounty hunters extensive powers for the purposes of returning fugitives to justice. These include the powers to pursue a fugitive into another state, to arrest him or her at any time, and to break into a fugitive's house in order to capture him or her.¹⁸

The powers of a bounty hunter are an extension of the powers that already are invested in a bail bonds person. The bounty hunter provides a service to the bond agency, and may in fact be a regular or contract employee of that agency. In the California Research Bureau (CRB) survey of bail fugitive recovery persons in the state, we identified 160 individuals working directly for or as contractors for 40 bail bond/recovery agencies. A regional study of three states (Georgia, Tennessee, and Texas) conducted in 1998 estimated that there were approximately 14,000 licensed bond agents in the United States, and 2,500 to 10,000 bail enforcement agents or bounty hunters.¹⁹ As we surmised from the CRB California survey, the 1998 study found only a few hundred of the self-identified bounty hunters actually earned a full time living at it.²⁰

Posted Bonds

There are several types of financial release options available to an accused person in California. They are as follows:

- *Citation Release.* This type of release usually involves the issuance of a citation rather than a booking in jail as a result of an arrest. An example of this type of release is when California Fish and Game Wardens conduct coastal traffic stops along state routes to check for illegal contraband (such as abalone). If they find any illegal contra-band they will cite and release the misdemeanor offenders, who must pay a fee.
- *Recognizance Bon.* A release from detention without a bond sometimes referred to as “own recognizance (OR).” This requires the person who is charged with the offense to sign bond papers that are completed by the County Clerk’s Office. No other collateral needs to be posted. Failure to appear for all future court dates under an own recognizance bond is a felony.
- *Surety Bond.* This is the most common bond. Typically, a bail bond company signs a promissory note to the court for the full bail amount and charges the defendant a fee for the service (usually 10 percent of the full bail amount). Frequently the bond company requires collateral from the defendant in addition to the fee. If the defendant fails to appear, the bond company is liable to the court for the full bail amount. Two states (Illinois and Wisconsin) use public sureties to post bonds for defendants and not private bail bond companies.
- *Deposit Bond.* This type of bond requires the defendant to deposit a percentage (usually 10 percent) of the full bail amount with the court. The percentage of the bail is returned after the disposition of the case, but the court often retains a small portion for administrative costs. If the defendant fails to appear in court, he or she is liable to the court for the full bail amount. This type of bond is seldom used.
- *Cash Bond.* In cases where the defendant is involved in a serious crime and has sufficient financial resources available, he or she may be required by the court to post the entire amount of bail in cash with the court. Full cash bonds provide a powerful incentive for the defendant to appear at trial. If the defendant makes all

court appearances, the cash is returned. If the defendant fails to appear in court, the bond is forfeited.

- *Property Bond.* In rare cases where the accused has financial resources and the case involves a serious crime, the posted bond will involve an agreement made by the defendant, as a condition of pretrial release, requiring that property valued at the full bail amount be posted as an assurance of his or her appearance in court. This is also known as a “collateral bond.” If the defendant fails to appear in court, the property is forfeited.

How are Bail Amounts Set in California?

The Judicial Council of California establishes uniform bail and penalty schedules for certain offenses, primarily *Vehicle Code* violations and misdemeanors, in order to achieve uniform statewide standards in the handling of the offenses. County Superior Courts are required to adopt a countywide bail and penalty schedule. County Superior court judges can also require additional bail for aggravating or enhancing factors. If the county bail schedule varies in any substantial way from the state schedule, the court must notify the Judicial Council.²¹

The purpose of the uniform bail and penalty schedule is to:

- Insure the presence of the defendant before the court
- To show the standard amount for bail which for *Vehicle Code* offenses, boating, fish and game, forestry, public utilities, and parks and recreation offenses may be used for a bail-forfeiture (conviction) instead of further proceedings.
- Serve as a guideline for the imposition of a fine as all or a portion of the penalty for a first conviction of a listed offense (as previous bullet) where a fine is used as all or a portion of the penalty. The maximum amounts for misdemeanor convictions involving boating, fish and game, forestry, public utilities, parks and recreation, and business licensing bail are six months in the county jail or a fine of \$1,000, or both.

Upon conviction, additional penalties and fines are also included as part of the uniform bail schedule. These penalties and fines are used to fund certain local and state criminal justice programs such as DNA testing and the Peace Officer Standards and Training Commission (POST). For example, the total bail for a first-time *Vehicle Code* offense involving a substance abuse infraction (*VC 2818*) would be as follows:

Base Bail	State Penalties	Surcharge	Local Penalties	
\$70	\$168	\$14	\$14	= \$266 total bail
				forfeiture in lieu of
				further proceedings.

Setting bail schedules for serious felony crimes is slightly different. It is the responsibility of superior court judges in each county to adopt a bail schedule for the felony offenses and misdemeanors listed primarily in the *Penal Code and Health* and

Safety Code. Before adapting a countywide schedule for these types of crimes, judges must consider the seriousness of each charged offense and assign an additional amount of bail for each aggravating or enhanced factor for the specific charge. Once these amounts are established, a copy of this countywide bail schedule is sent to the officer in charge of the county jail and/or each city jail within the county, to each superior court judge, and to the commissioner of the county courts.²²

The officer in charge of the jail or detention center is authorized to approve and accept bail when requested by a defendant. In instances where a jail officer determines that the amount of scheduled bail for the charged defendant is insufficient to assure an appearance for arraignment or to assure protection of a victim, he or she may request to the presiding judge that the accused remain in custody until a hearing can take place. Depending on the seriousness of the crime, a bail hearing involving a superior court judge would follow to determine if the accused is eligible for bail, and if so, whether any additional amounts would be included before release.²³

What are the Most Common Release Mechanisms for Felony Defendants in the United States?

Although California pre-trial release data is not available, according to a 2006 study conducted by the U.S. Department of Justice using court data collected in 2002, 27 percent of released violent felons across the country committed one or more types of misconduct while in a pre-trial release status. Misconduct usually involved a re-arrest for a new offense (14 percent) or a failure to appear in court (13 percent).²⁴ Failure to appear in court would involve forfeiture of bail, if posted for release. An estimated 18 percent of all released defendants were rearrested while awaiting disposition of their case; about two-thirds of these new arrests were for a felony.²⁵

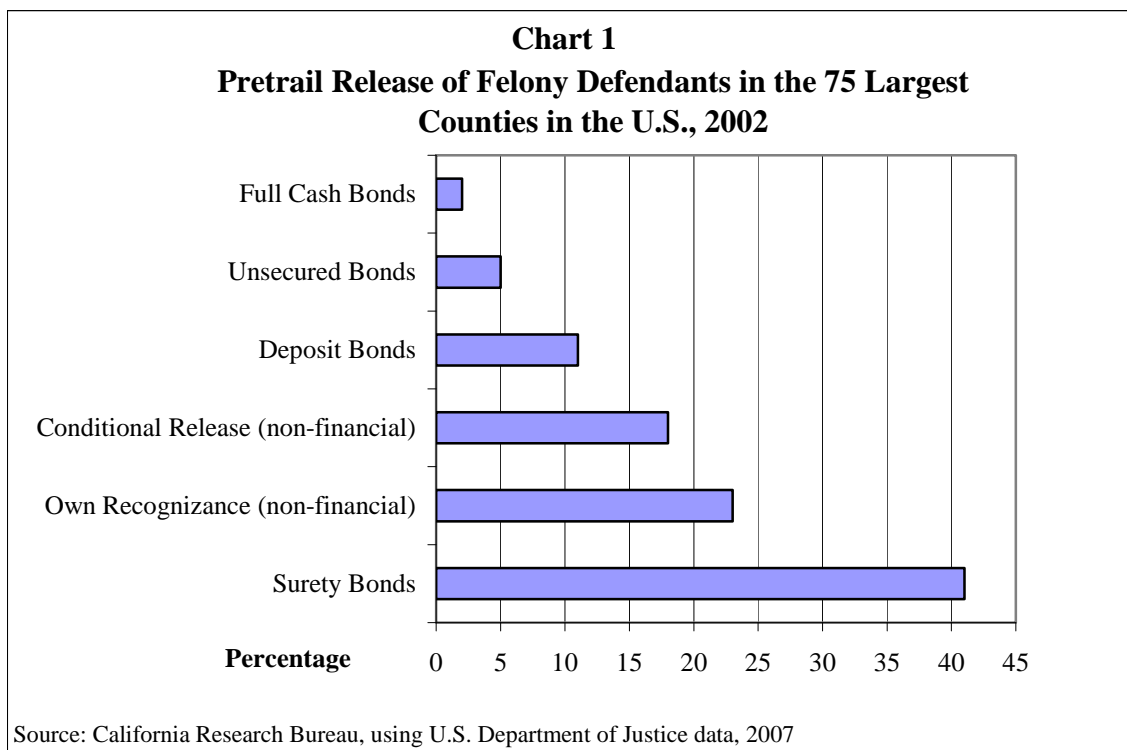
Robbery defendants were the most likely type of offender to be charged with pretrial misconduct in the U.S. Department of Justice study. Twenty-four percent were rearrested for a new offense and 18 percent failed to appear in court. Misconduct rates were also high for those eventually convicted of assault (23 percent), murder (17 percent), and rape (14 percent).

Other findings about pre-trial release defendants from the U.S. Justice Department study include:

- Judges released on bail nearly 62 percent of the felony defendants prior to the disposition of their case, while 38 percent were detained until case disposition (perhaps because they were unable to raise the usual minimum ten percent of the total bail required to post bail), including six percent who were denied bail.
- Murder defendants, who made up eight percent of all those persons denied bail, were the least likely to be released prior to case disposition, followed by defendants whose arrest charge was rape and burglary.
- Of the released defendants who had a bench warrant issued for their arrest because they did not appear in court as scheduled, about one-fourth (25 percent)

were still fugitives after one year. This figure represents six percent of all released defendants.

The most common type of release mechanism used for felony defendants in the U.S. Department of Justice study was a commercial surety bond (41 percent), which involved the services of a commercial bail bonds agent. Less than half of all defendants were released under non-financial conditions (own recognizance, 23 percent, and conditional release, 18 percent). Nonetheless, non-financial (no bail) release is the most common form of pretrial release in most states, and the only form allowed in some states (Wisconsin, Oregon, Illinois, and Kentucky).²⁶ Non-financial release programs were initially developed to serve only truly indigent, non-dangerous defendants and do not require posting of any bond money, but their use has expanded (see Chart 1).



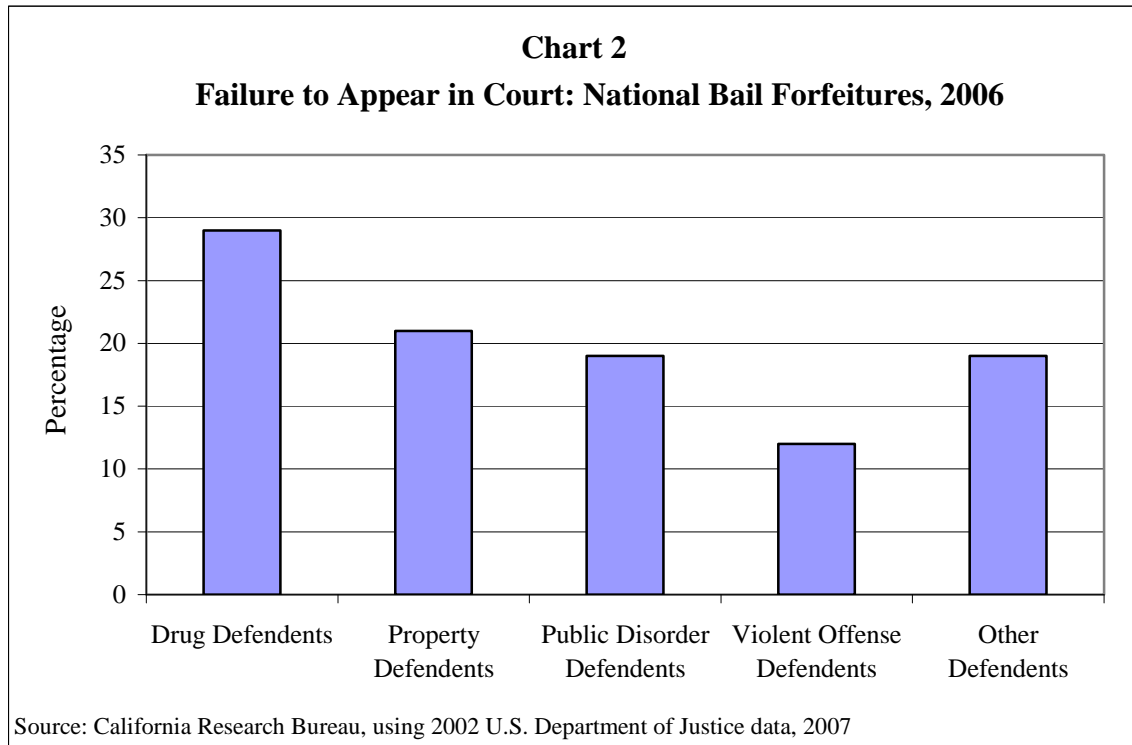
According to a 1997 study of Los Angeles County, every time a defendant fails to appear in court as required, there are substantial associated public costs, as well as loss of respect for the criminal justice system. The study estimated that the weighted average cost for each failure to appear was \$1,274.²⁷

Who is Most Likely Not to Appear in Court?

The California State Judicial Council does not keep records about who “skips” bail, or how and when forfeiture money is collected. Nationally, the U.S. Department of Justice study (2002 data) found that drug defendants had the highest failure-to-appear rate (29 percent), followed by property defendants which includes burglary and theft (21 percent), and public-disorder defendants such as intoxication (19 percent). Twelve percent of the

defendants charged with a violent offense failed to appear in court as scheduled, including those charged with robbery, murder, and rape (see Chart 2).

Drug offense defendants (eight percent) were more likely to be a fugitive after one year than defendants released after being charged with a property (five percent), public-disorder (five percent) or violent (four percent) offense. No released murder defendants were in a fugitive status at the end of the one-year study period.²⁸



III. TRAINING STANDARDS FOR BAIL RECOVERY IN THE CRIMINAL JUSTICE SYSTEM

There are no formal degrees either required or offered for bail fugitive recovery in California or the United States. However, in a few states there are schools that independently train bounty hunters and grant certification.²⁹ Background experience and a degree in a criminal justice discipline such as law enforcement can be a major assistance by familiarizing the bounty hunter with the basics of investigation, criminal behavior, and the essential legal issues that the job entails.

Bounty hunters are subject to varying standards of training, licensing, certification, and legal restrictions in each state (see Table 1 for more detail). All states require bounty hunters to be at least 18 years old. Most states do not have any formal training or licensing prerequisites, but some states have very strict and specific regulations. Some states prohibit bounty hunters from carrying firearms, for example. In California a prior felony conviction prohibits a person from working as a bounty hunter.

It is the responsibility of the bounty hunter to know and conform to all applicable laws, regulations, and legal constraints applicable wherever he or she travels to apprehend a fugitive. Key regulations that vary from location to location include:

- Possession of firearms
- Under what circumstances force can be applied and the amount of force that can be used
- Local regulations concerning fugitive pursuit, such as which individuals can be legally detained or arrested, and under what circumstances the bounty hunter is legally permitted to enter a residence or building to locate and arrest a fleeing bail jumper

Finally, the bounty hunter is required to understand and conform to proper prisoner transport procedures as well as to procedures for transferring prisoners to other law enforcement officials. The bounty hunter must know where to find this information in each new location he or she enters in pursuit of a fugitive.³⁰

Holly Bishop, President of the Washington State Bail Agents Association, says that his organization has worked with the Washington Legislature to institute licensing requirements for bail bonds persons and bounty hunters. Bonds persons are required to undergo FBI background checks, and bounty hunters receive the same training in arrest procedures as police officers. According to Bishop, “We don’t have any people going to the wrong houses and breaking down doors anymore.”³¹

A successful bounty hunter possesses excellent interpersonal and verbal skills to communicate with a wide range of people including every level and strata of society, from lawyers and judges to desperate fugitives and their families and friends. Good communication skills also play a role in conducting interviews to locate fleeing felons,

and in negotiating to encourage peaceful surrender. Other psychological characteristics that define a successful bounty hunter include patience, persistence, and the physical stamina necessary to perform surveillance and relentlessly pursue bail jumpers. In addition, a successful bounty hunter must second-guess where a fugitive is likely to flee or hide, have the courage to withstand confrontation, and have excellent judgment to minimize the risks that are associated with this high-risk occupation.³²

STATE LAWS GOVERNING BOUNTY HUNTERS

In 1980, the National Conference of Commissioners on Uniform State Laws enacted reforms to the Uniform Criminal Extradition and Rendition Act (UCERA) to establish a national standard for interstate extradition and recovery of fugitives. The conference was convened in part to address concerns expressed by governors and attorneys general about the power of professional bonds persons to apprehend interstate fugitives and the need to increase non-monetary forms of bail.³³ The Act allows state governors and/or state judiciaries to determine how a fugitive is to be extradited to another state and what procedures are used for retrieval by private parties. For example, before a fugitive caught in another state can be returned to the state in which the crime was committed, the governor of the state where the person is being held must issue an arrest warrant for the fugitive and/or show just cause through an extradition hearing as to why the fugitive should be returned.

California's version of the Act, as it applies to the section on extradition, differs slightly from other states in that the governor cannot be compelled to issue an arrest warrant to extradite a fugitive to another state even if that state has probable cause.* All fifty states and territories of the United States have adopted the Uniform Criminal Extradition and Rendition Act or a variation of it.³⁴

Under the Act, a private person (bail bonds person or bounty hunter) can arrest a bail fugitive accused of a crime in another state for which the punishment is at least one year of confinement.³⁵ However the bonds person or designee must bring the fugitive before a judge or magistrate within 24 hours of arrest to await a formal extradition request from the demanding state.

* 20 Cal. 3d 765; 576 P.2d 473; 144 Cal. Rptr. 758; 1978. The California Supreme Court denied the petition of the State of South Dakota for a writ of mandate to compel the Governor to issue a warrant for the arrest of fugitive, Dennis Banks, rejecting the assertion that the Governor's extradition function was mandatory once the conditions of the California Uniform Criminal Extradition Act (*Penal Code, § 1548 et seq.*) were satisfied. The court held that while the federal Constitution imposes on the Governor a mandatory obligation to extradite a fugitive to a demanding state, the Constitution does not empower the courts, federal or state, to enforce that duty by writ of mandate. The court further held that the Legislature, in adopting the California Uniform Criminal Extradition Act, which closely conforms to the language of the extradition clause of the United States Constitution, did not intend to impose on the Governor a judicially enforceable duty to extradite. The court held the Governor possesses discretionary power to refuse an extradition demand, but that he has an obligation enforceable by mandamus to exercise that discretion, either by granting or denying the demand.

While all states have extradition provisions that apply to more serious crimes such as murder, Missouri and South Carolina have not adopted the Uniform Criminal Extradition and Rendition Act provisions allowing private citizens (bail bonds person or their bounty hunter agents) to formally extradite to other states fugitives accused of lesser crimes.³⁶

The regulation of bonds persons and bounty hunters varies widely from state to state (see Table 1).

- Illinois, Kentucky, and Wisconsin have abolished commercial bonding. Oregon has abolished both commercial bonding and bounty hunting within the state. Bail bonds persons from other states seeking to apprehend “skips” entering into any of these four states must obtain a bench warrant from the local judiciary of record before they are allowed to apprehend their fugitive.
- In California (*Penal Code § 847.5*), a similar extradition process is required for a bounty hunter entering from another state to apprehend a bail fugitive. The bounty hunter must wait for a bench warrant from the local judiciary of record to be issued after an extradition hearing to determine if there is cause to apprehend the fugitive.
- Some states regulate bonds persons stringently (usually through the state’s department of insurance), and they are increasingly setting higher standards for bounty hunters as well. Typically, a bail bonds person must undergo some kind of training and not have any felony convictions.
- There are states in which a recovery agent (bounty hunter) cannot operate, including Arkansas, Florida, and Texas, but the bail bonds person is authorized to operate.
- In some states anyone can be a bounty hunter.³⁷
- There are states such as Arizona, Connecticut, Indiana, Mississippi, New Hampshire, Nevada, and others where a license is required to be a bounty hunter.

Table 1		
States That Prohibit Commercial Bonding and the Use of Bounty Hunters		
State	What Statute Prohibits	Year
Wisconsin	<i>Wis. Stat. § 969.12</i> provides that no person or insurance company can be compensated for serving as a surety, effectively eliminating the commercial bond market. <i>Kahn v. McCormack</i> , 299 N.W.2d 279 (Ct. App. 1980) (upholding constitutionality of statute and stating that the purpose of the law is to eliminate the commercial bond industry). <i>Wis. Stat. § 604.7</i> .	1980
Oregon	<i>Oregon Revised Statutes, § 135.255, .260, .265</i> . Defendant only can be released from custody on conditional release, deposit (his or her own) bond, or be released on own recognizance (i.e., no surety bonds). In <i>State v. Epps</i> , 585 P.2d 425, the Oregon Supreme Court abolished the broad common law rights of bounty hunters and bonds agents, and applied the Uniform Criminal Extradition Act to bounty hunters seeking to take defendants over state lines (extradition hearing for just cause).	1978
Illinois	<i>Ill. Stat. Ch. 725 §§ 5/110-7, 5/110-8</i> . Statute enacted in 1963 designed to eliminate commercial bail bond industry. <i>Schilb v. Kuebel</i> , 264 N.E.2d 377, 380 (Ill. 1970), aff'd 404 U.S. 357 (1971); "No bail bonds persons from any state may seize or transport unwillingly any person found in this State who is allegedly in violation of a bail bond posted in some other state."	1970
Kentucky	<i>Kentucky Statutes § 431.510</i> . State law expressly outlaws the commercial bail bond industry. <i>Stephens v. Bonding Assoc. of Kentucky</i> , 538 S.W.2d 580 (upholding statute). Bond agent from another state seeking to arrest fugitive who has fled to Kentucky must get a warrant (<i>Ky. Rev. Stat. § 440.270</i>).	1976
Source: California Research Bureau, 2007		

Table 2	
States That Prohibit Independent Freelance Bounty Hunters	
State	Statute
Florida	All bail runners (bounty hunters) must be licensed and work only for one bond agent, be over 18, a resident of the state, have no criminal record, and pass a certification course, <i>Florida Statutes, § 648.37</i> . One cannot make an arrest on an out of state bond unless the person is licensed in Florida or the state where the bond was written. <i>Florida Statutes, Section 648.30</i> .
North Carolina	All bail runners (bounty hunters) must be licensed. <i>North Carolina General Statutes, § 58-71-40</i> . Runner must be over 18, no felony convictions, a resident of the state, have necessary training and experience, <i>N.C. Gen. Stat. § 58-71-50</i> . Must take 20 hours of education for a license. <i>N.C. Gen. Stat. § 58-71-71</i> . Must take an examination. <i>N.C. Gen. Stat. § 58-71-70</i> . Bounty hunters only can work for one bonding company <i>N.C. Gen. Stat. § 58-71-65 (1996)</i> . Bonds persons and runners cannot enter the homes of third parties to apprehend a fugitive. <i>State v. Mathis</i> , 509 S.E.2d 155 (N.C. 1998).
South Carolina	All bail runners (bounty hunters) are required to be licensed (<i>S. C. Stat. § 38-53-80</i>), have no criminal record for the past ten years, be a resident of the state, be over 18 years old (<i>S.C. Stat. § 38-53-90</i>), take a 20 hour class and pass an examination (<i>S.C. Stat. § 38-53-80</i>). They can only work for one bond agent who will supervise and be responsible for their conduct (<i>S.C. Stat. § 38-53-120</i>). Bond agents must supply a list of their runners to the clerk of court in the county where they operate. (<i>S.C. Stat. § 38-53-120</i>).
Source: California Research Bureau, 2007	

Table 3
States Requiring a Bounty Hunter License

State	Statutes
Arizona	<i>Ariz. Rev. Stat. § 13-3885.</i> A bounty hunter must be licensed, pass a background check, and complete a training class. They can enter a home only with the consent of the occupants present at the time of entry, and cannot wear clothes indicating that they are a state or federal official. Bond agents must notify the state that they are utilizing particular bounty hunters. Once a year, bond agents also must notify the state of all bounty hunters they have used. Out-of-state bounty hunters must contract with Arizona licensed bond recovery agents. <i>Ariz. Rev. Stat. § 13-3885.</i>
Connecticut	Before apprehending a bail fugitive, a professional bonds person, a surety bond agent, or a bail enforcement agent (bounty hunter) (<i>licensed under CGSA § 29-152 (f) to (l)</i>) must notify law enforcement of the jurisdiction in which the principal is thought to be located. Under <i>CGSA § 29-152 (f) to (l)</i> bail recovery personnel are not allowed to wear law enforcement-like apparel or badges, and if firearms are carried, a permit is required (<i>29-152(m)</i>). License requires training (20 hours) and background checks. No felony record allowed. Police officers are forbidden from being bounty hunters. Violation is punished by a fine not over \$1,000 and/or two years in jail and permanent loss of license (<i>29-152(n)</i>).
Indiana	Recovery agents (bounty hunters) must be licensed. <i>Ind. Code Ann. § 27-10-3-1 (1997)</i> . To obtain a license, recovery agents must be at least 18 years old, be a citizen of the U.S., and a resident of the state for at least six months. At least ten years must have elapsed after any felony conviction to obtain a license (five years for misdemeanor), <i>Ind. Code Ann. § 27-10-3-5</i> , and they must pass an examination given by the state, <i>Ind. Code Ann. § 27-10-3-6</i> . Recovery agents must notify the sheriff in their respective locales of residence, <i>Ind. Code Ann. § 27-10-3-17</i> , and bail bond agents must give the state a list of the recovery agents they employ, <i>Ind. Code Ann. § 27-10-3-14</i> .
Iowa	<i>Iowa Code § 80A.3</i> Bounty hunters must be licensed and notify local police of a defendant's location before making an arrest. A victim can sue a bail bond agent as well as the bounty hunter for misconduct. <i>Iowa Code § 80A.16A</i> . A bounty hunter cannot enter the home of or use force against an innocent third party. <i>State v. McFarland</i> , 598 N.W.2d 318 (Iowa Ct. App. 1999).
Louisiana	<i>LAC Title 37, Part XVIII, Ch. 49, Reg. 65, Sec. 4901 et seq.</i> All recovery agents (bounty hunters) must be licensed by the Department of Insurance. There are education requirements to obtain and keep a license. Out of state recovery personnel must contract with a bail agent licensed in Louisiana and are required to wear apparel identifying the bail bond company during apprehension or surrender in a private residence. For apprehension in a private residence, notification of local law enforcement is required.
Mississippi	<i>Miss. Stat. Ann. § 83-39-3.</i> Bail enforcement agents (bounty hunters) must be licensed, be at least 21 years of age, resident of the state for one year, and have no felony record. A bail bonds person may, before final judgment, arrest the principal anywhere or authorize another to do so. (<i>MS Code 99-5-27</i>) A surety (bail bonds person), by presenting a certified copy of the bond, can request law enforcement to arrest the principal and must accompany the officer to receive the bail fugitive.
Missouri	<i>MO Title 20, CSR, Div 700, Chapter 6.150.</i> Initial Basic Training for Surety Recovery Agents (bounty hunters) is required under § 374.710 and 374.784 (2004). The initial basic training must be completed within a 12-month period prior to submitting an application, and consists of a minimum of 24 hours, taught by personnel with qualifications approved by the director. Training includes instruction in all of the following subject areas: bail law, arrest examination, commitment and bail, and applicable federal and state constitutional and case law, including, but not limited to warrants/warrant procedures, incarceration, surrender and release.

Table 3
States Requiring a Bounty Hunter License

State	Statutes
Nevada	All bond agents and their agents must be licensed. <i>Nev. Code §§ 697.090, 697.180</i> . To obtain a license, a bail enforcement agent (bounty hunter) must be at least 21 years old, a U.S. citizen, have a high school diploma or equivalent, have no felony record, pass a psychological examination, pass a written examination, and pass a drug test. <i>Nev. Code §§ 697.173, 697.200, and 697.186</i> . Bounty hunters also must take a training class within nine months of being hired as a bounty hunter. <i>Nev. Code § 697.177</i> . After making an arrest, bail enforcement agent (bounty hunter) must notify the local law enforcement agency of the jurisdiction in which the defendant was apprehended of his or her identity, the identity of the defendant, and where the defendant is being taken to be surrendered into custody. Before forcibly entering an inhabited dwelling, a bail enforcement agent must notify local law enforcement. <i>Nev. Code. § 697.325</i> .
South Dakota	Bail runner (bounty hunter) must be licensed and have no felony record. <i>S.D.C.L. §§ 58-22-12, 58-22-13</i> (must submit fingerprints), § 58-22-16 (must pass a written examination). Bond agents must notify the state of the runners they employ. <i>S.D.C.L. §§ 58-22-27, 58-22-52</i> . Out-of-state bail agents or runners must notify local law enforcement of their intended activities and present evidence of an out-of-state license. Without a license the agent cannot conduct search and arrest activities. § 58-22-51.
Utah	Bounty hunters must be licensed (<i>Utah Code Ann. § 53-11-107</i>), be 21 years of age, a citizen or legal resident of U.S., complete a state background check, a training class, and perform minimum time in the field as an apprentice, bond agent, or law enforcement officer (<i>Utah Code Ann. § 53-11-108, et. seq.</i>). Local police must be notified before making an arrest. (<i>Utah Code Ann. §§ 53-11-122, 123</i>).
West Virginia	<i>H.B. 4481</i> (Enacted April 4, 2000). All “bail bond enforcers” (bounty hunters) must register with the West Virginia state police. That registration must: (1) identify at least one bond agent for whom the enforcer is authorized to act, (2) include written authorization from that bonding agent, (3) contain the enforcer’s certified fingerprints, and (4) include one photograph. To register, an enforcer must be at least 21 years old, a citizen of the U.S., and have no felony convictions. Out-of-state bounty hunters must abide by the same requirements as an in-state agent (including written authorization from an in-state bonding agent).
Washington	<i>WAC 308-19-310</i> . A pre-license examination is required for bail bond recovery agents (bounty hunters). Each applicant for a bail bond recovery agent license must pass an examination demonstrating their knowledge and proficiency in all of the training requirements set forth in <i>WAC Title 308, Ch. 9, § 305</i> . Applicants who fail to achieve a passing score are required to keep current a firearm certification from the criminal justice training commission, wait a minimum of seven days before reexamination, and pay the required reexamination fee.
Delaware	<i>Delaware Code, Title 24 § 5504 (a)</i> Licensing required for bail enforcement agents (bounty hunters) may include the term of a license or registration, the qualifications for a licensee, and a fee not to exceed \$500 for each application for licensure and/or renewal of an existing license. The Department of Safety and Homeland Security is to determine all fees. Each fee collected is deposited into the Bail Enforcement Regulatory Fund, a revolving fund that reverts to the State General Fund.
Source: California Research Bureau, 2007	

Table 4
Other State Laws Certifying Bounty Hunters

New Hampshire	<i>N.H. Stat. § 597:7-b.</i> Recovery agents (bounty hunters) must be trained and certified through a program approved by the Professional Bail Agents of the United States, and register with the Secretary of State (who will issue proof of registration). Bail agencies must have at least \$300,000 in liability insurance for recovery activities, and recovery agents acting as independent contractors must have liability insurance of at least \$300,000. Bail agents and recovery agents must inform the chief of police of the relevant municipality when searching for a bail jumper.
Georgia	<i>Ga. Code § 17-6-56 through 17-6-58.</i> Bounty hunters must be at least 25 years old, be a U.S. citizen, obtain a gun permit, and notify the local police of an intended arrest. Bonds persons must register all of the bail recovery agents they employ with the sheriff of the county in which they are a resident. A bounty hunter must carry identification cards issued by a bonds person, which describe the bounty hunter’s physical appearance, and contains the bonds person’s signature. A bounty hunter cannot wear clothing or carry badges suggesting that he or she is a public employee. An out-of-state recovery agent must be able to show possession of a license in his or her home state, or hire a Georgia bounty hunter if there is no licensing law in the home state.
Colorado	<i>CRSA 16-4-108.</i> A surety (bail bonds person) with a certified copy of the bond may apprehend a bail fugitive. A surety is prohibited from contracting with a bail recovery person who was found guilty of a felony within the last 15 years, or is not trained in bail recovery practices. A recovery agent (bounty hunter) must submit fingerprints to the Colorado Bureau of Investigation, undergo a background check (<i>12-17-105.5</i>), and receive verification of a certificate of completion of the Peace Office Standards and Training Board (POST) bail recovery course. Bail recovery agents must also have fingerprints on file with local police or sheriff. <i>12-7-101 et seq.</i>
Tennessee	<i>Tenn. Code Ann. § 40-11-3.</i> A bounty hunter cannot have criminal record, must notify local police of a defendant’s location and present a copy of the warrant, a copy of the bond, and evidence that the bounty hunter has been hired by a bond agent. <i>Tenn. Code Ann. § 40-11-318.</i> A bounty hunter must carry a pocket card certifying that the bounty hunter has completed the training required by this section or, if the bounty hunter is from a state other than Tennessee, proof that the bounty hunter successfully completed an equivalent amount of training in the bounty hunter’s home state within the last year. Failure to present all of the proper credentials to the appropriate law enforcement officer prior to taking any person into custody is punishable as a Class A misdemeanor.
Arkansas	<i>H.B. 1163, enacted April 15, 1999.</i> Only licensed bail agents, private investigators, or law enforcement officers, or people who have two years of actual work as a licensed investigator, bond agent, or law enforcement officer, can seek and arrest fugitives. Such person must be at least 21 years of age, have no felony record, and must notify the local police of their presence and provide them with the defendant’s name, charges, and suspected location.
Texas	<i>Tex. Code Crim. P. 17.19</i> A bail agent can obtain a warrant from a court before seeking to arrest a defendant, and a judicial warrant is required to arrest with force (<i>Tex. Code Crim. Proc Art 17.19</i>). The Uniform Criminal Extradition Act requires that bond agents or bounty hunters take defendant before a magistrate prior to transportation over state lines. See <i>Landry v. A-Able Bonding, Inc.</i> , 75 F.2d 200 (5 th Cir. 1996).
Oklahoma	<i>Okl. Stat. § 1750.14.</i> Out-of-state bounty hunters or bond agents must be accompanied by peace officers or a licensed Oklahoma bond agent when seeking to apprehend a bail jumper. Surety (bail bonds person) may at any time and place in the state arrest his principal, or by written authority on a certified copy of the undertaking, empower another of suitable age and discretion to do so. (<i>OK S, Title 39.1328 & 1329</i>). <i>OK S 1750.14</i> , out-of-state bounty hunters or bond agents must be accompanied by a peace officer or a licensed Oklahoma bond agent when seeking to apprehend a fugitive.

Table 4
Other State Laws Certifying Bounty Hunters

California	<i>California Penal Code § 1299.04.</i> To become a Bail Fugitive Recovery Person (bounty hunter) an individual must be at least 18 years of age, not convicted of a felony, have completed a 40-hour power of arrest course (<i>PS § 832</i>) approved by Peace Office Standards and Training Board (POST), completed a 12-hour pre-licensing bail education course (<i>Insurance Code § 1810.7</i>), and an eight-hour security guard course in the power to arrest (<i>Business and Professions Code § 7583.7</i>). Bounty hunters cannot represent themselves as peace officers or wear badges or uniforms, and must carry a certificate of completion of the above mentioned coursework.
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Source: California Research Bureau, 2007

IV. PROFESSIONAL STANDARDS FOR BAIL RECOVERY IN CALIFORNIA

Findings of CRB Survey on Community College Training (Penal Code § 832)

As one of three training requirements, a bail fugitive recovery person is required to take and pass, a 40-hour “power of arrest” training module (*Penal Code § 832*). The power of arrest training program for non-law enforcement officers is a Peace Officers Standards and Training (POST) certified course offered through the state community college system. This coursework is required for most security-related personnel working in California. Prospective law enforcement cadets must take the POST-certified coursework at designated law enforcement training academies, although they can also take the power of arrest coursework in community colleges under certain circumstances such as family hardships and availability. Aside from law enforcement cadets, security guards made up the next largest single group of personnel required to take this course.

We determined that community colleges are the only source of information about the prospective bail fugitive recovery persons who have completed this part of the state’s training requirements. As a consequence we surveyed 43 community colleges offering the *PC-832* coursework.[^] Thirty-five of the training sites, or about 80 percent of the total, responded to the inquiry. A majority of the survey respondents were either an instructor of the course or a coordinator for the school’s Administration of Justice program.

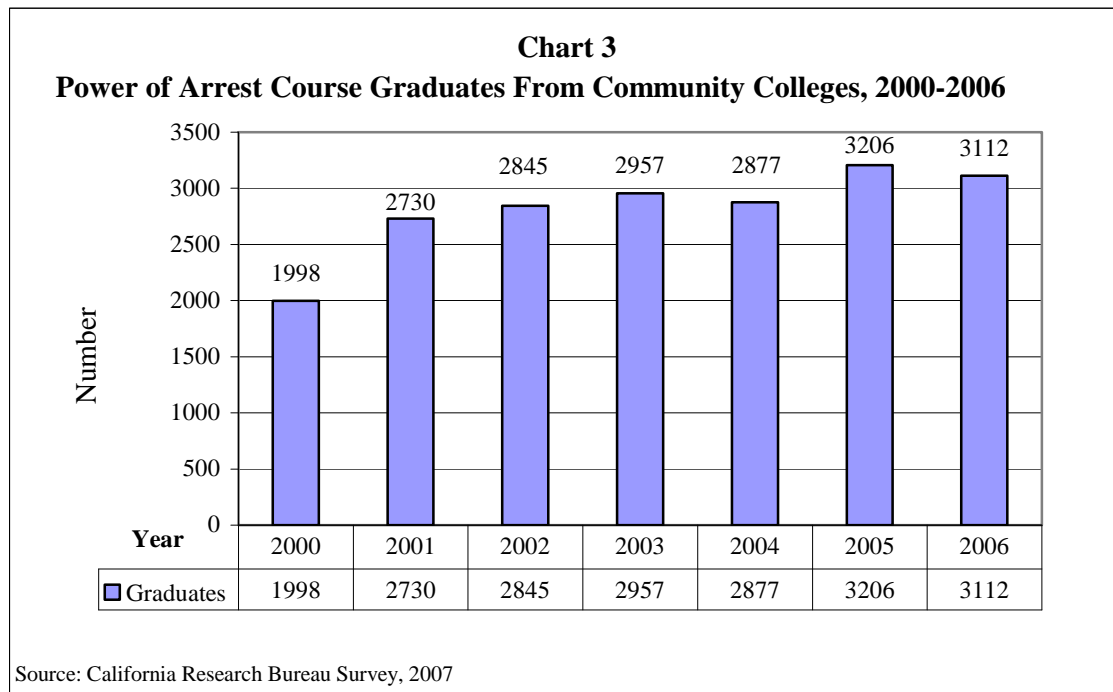
We found that the required coursework and training module varied among institutions. Most community colleges offer separate 40 hour *power of arrest* and 24 hour *firearms courses* (required for private and school-related security employment), while others combine the two into a single course. According to course instructors and POST officials we interviewed, the need of a student to be certified to fire a weapon and the availability of a course instructor determine if the course is combined or the two components are offered separately. For instance, if there is a demand for firearm course training and there is a firing range which can accommodate sufficient additional firearm instructors to meet POST requirements (average of one instructor-to-five students), separate courses are likely to be offered. If there is not a demand for firearm training then the coursework is likely to be combined. The process used by POST to certify the course curricula, instructors, and acknowledgement of completion is standardized across all training modules and schools. For example, upon course completion, students receive a certificate with an individual POST control number that distinguishes between completion of the *Power to Arrest* and *Firearms courses*.

Only one of the responding community colleges keeps records that distinguish between student career tracks. Therefore it is not possible to gauge the number of potential bail

[^] The list of community colleges offering the training was obtained from the Peace Officer Standards & Training (POST) website.

fugitive recovery candidates that have enrolled in the courses. Instructors know that a student intends to use the course to satisfy the bail fugitive recovery person training requirement only if the student discloses it.

Twenty-three of the responding community colleges keep records of the number of students completing the course, while 12 schools were only able to provide estimates. Chart 3 combines the known and estimated number of *PC 832 power of arrest* (both separate and combined classes) course graduates for 2000 through 2006. The average number of graduates per year varied from a low of 1,198 in 2000, to a high of 3,206 in 2005.



Some schools do not charge a community college enrollment fee, currently \$20 per unit. The *power of arrest* course is usually three units (\$60) and the firearms course is typically one unit (\$20). There are additional costs including books, health fees, and for the firearm course, ammunition, range fees, and finger printing. The firearm range fees can be particularly expensive based on location of the range and the area, pushing the course cost up to as much as \$216.

The curriculum for *PC-832* courses centers around learning domains created by POST. The *Power of Arrest* portion encompasses thirteen specific domains with one additional learning domain for firearms. A course instructor responding to the CRB survey indicated that he uses a condensed version of the learning domains that he created, available to students in a manual through the school bookstore. He has also distributed his version to several other schools offering the *PC-832* course.

The table below shows a list of the 14 POST “learning domains” or topics for *PC-832*.

Topics	Title
T 01	Leadership, Professionalism & Ethics
T 02	Criminal Justice System
T 03	Policing in the Community
T 05	Introduction to Criminal Law
T 15	Laws of Arrest
T 16	Search and Seizure
T 17	Presentation of Evidence
T 18	Investigative Report Writing
T 20	Use of Force
T 30	Preliminary Investigation
T 33	Arrest Methods/Defensive Tactics
T 35	Firearms/Chemical Agents
T 39	Crimes Against the Justice System
T 42	Cultural Diversity/Discrimination

The *Power of Arrest* portion of the class usually is taught by one instructor with additional personnel brought in for the firearms portion. POST requires an average of one instructor per five students for the firearms instruction. The instructors of both portions of PC-832 are required to be POST-certified. However, only the “power of arrest”

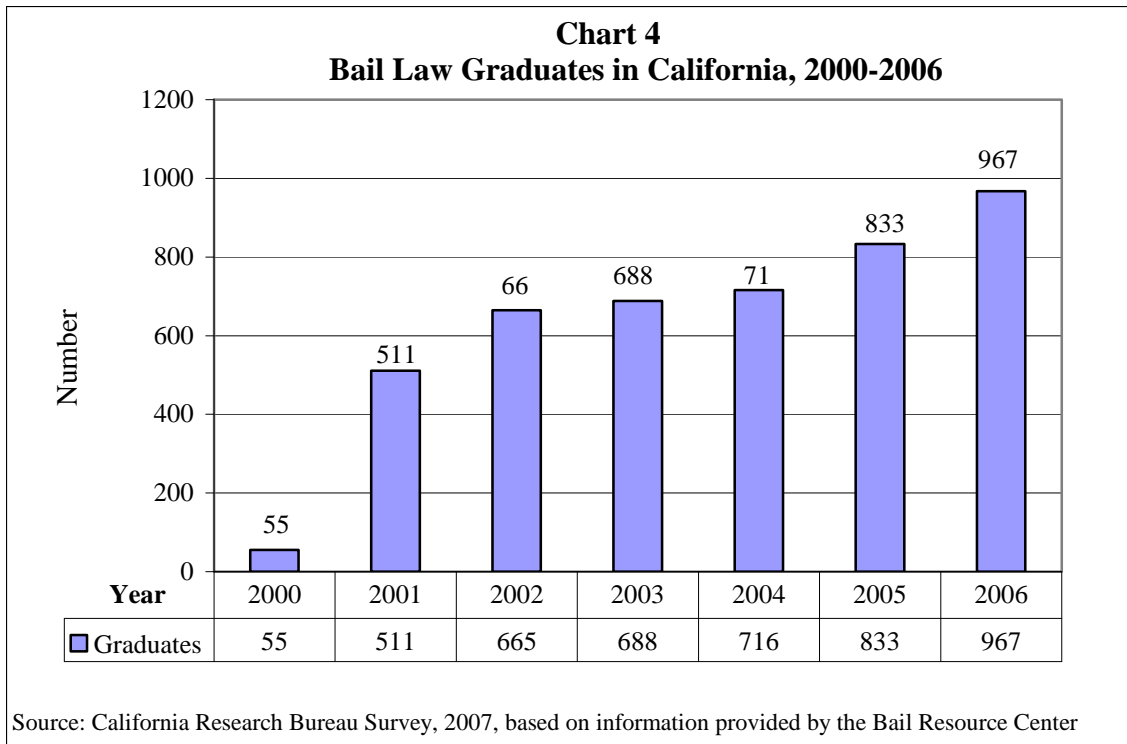
portion of the course is required of potential bail fugitive recovery persons by *PC 1299*.

We were unable to determine the number of potential bail fugitive recovery persons enrolled in community college PC-832 courses, as the schools do not distinguish between enrollees. However, POST maintains a database of students who have completed the PC-832 coursework through individual POST control numbers. CRB requested this information but POST could not provide break-out information because it does not have the resources to do it.

Findings of CRB Survey of Bail Law Certification

The second certification requirement for bail fugitive recovery persons in California is a 12-hour bail law course (*Insurance Code § 1810.7*). While the California Department of Insurance is responsible for issuing bail bond licenses to agents, it does not track who takes the bail law course in order to fulfill PC-1299 requirements. There are two organizations in the state that provide the 12-hour bail law coursework, the California Bail Agents Association and the Bail Resource Center. The cost of the course ranges from \$290-\$320.

As we found in the community college survey, these two organizations do not keep detailed records of individual enrollees, but can provide information on the total number of individuals who completed the course for each year back to 2000.



The bail law course is offered by the California Bail Agents Association six times a year over a two-day period and is primarily designed for bail bond agents. The majority of the course is intended to inform and educate potential bail agents on bail law, the bail bond application process, and the overall bail industry. The training also prepares the attendees for the Department of Insurance (bail agent) licensing test as well as fulfills the certification process required for bail fugitive recovery.

An experienced bail agent in the surety industry instructs most of the two-day course.[^] In a recent class that we attended, there were 35 attendees, of which seven were seeking to fulfill the *PC-1299* requirements to become a bail fugitive recovery person.³⁸ During the second day of instruction the focus was on underwriting bonds using real estate, which has little to do with fugitive recovery. There was also a segment where another instructor questioned students regarding the legality of carrying firearms while apprehending fugitives and urged them to obtain additional formal firearm training to obtain a California Exposed Weapons Permit (certified by the Consumer Affairs, Bureau of Security and Investigative Services). “In order to carry a firearm as a bail fugitive recovery person, one would need to obtain this permit,” he said.³⁹

Only during the last two hours of the class are bail fugitive recovery-related issues discussed. “So you want to become a Bail Fugitive Recovery Person, compliant with California law?,” asked an instructor of the 12 hour pre-licensing course on bail law.

[^] *Suret* - Security against loss or damage; a person who has assumed legal responsibility for another.

Introduced as the “dark side of bail,” the instructor opened with a short background piece about the Bail Fugitive Recovery Person Act. When discussing the requirement that bail fugitive recovery persons inform local police of an impending apprehension no more than six hours in advance (*PC-1299.08(a)*), the instructor presented the following situation. He had traveled to Fresno County to apprehend a fugitive, whose bail forfeiture was within 24 hours of execution.

One of my agents was staking out the fugitive’s girlfriend’s apartment in advance of my coming, and the agent had verified seeing the suspect on two occasions. On this occasion I did not call local law enforcement authorities until right before crossing the Fresno County line because I feared losing him and therefore forfeiting my bail if I waited any longer.⁴⁰

V. FINDINGS OF CRB BAIL FUGITIVE RECOVERY PERSON SURVEY IN CALIFORNIA

The nature of “bounty hunting” presents challenges when developing an appropriate research tool to assess skills and compliance with training requirements. No single research method can gain the desired insights into the practice and nature of bounty hunting, or provide an evaluation of the training requirements and whether they result in better fugitive recovery outcomes in California. The California Bail Agent’s Association and other businesses engaged in fugitive recovery assisted us in designing the study. Some bail agents felt that a written survey would not garner an “overwhelming” response because of the “secretive” nature of some bounty hunters. As a result, the CRB decided on a dual research approach (a survey and personal interviews) to gather both quantitative and qualitative data.

Interviews

A short interview format was used, based on structured and open-ended questions. The interviews were taped with the consent of the individuals involved, to ensure accuracy. The interviewees were selected based on their prominence in the profession and their years of experience in bail bonding and recovery. The California Bail Agent’s Association of California provided leads and suggestions. We completed five interviews, representing nearly a hundred years of experience in bail bonding and recovery.

The Survey

The survey instrument was designed to be short and easy to answer, primarily with fill-in the blank open-ended questions (See Appendix A). Respondents were guaranteed complete anonymity including a prepaid return envelope to ensure confidentiality. There were sixteen questions encompassing various aspects of the California Fugitive Recovery Persons Act. Bail fugitive recovery persons were given every possible opportunity to voice their opinions and concerns.

The CRB bail fugitive recovery person survey was sent to 160 people in March 2007. We used several sources to identify potential respondents, including a website directory (*FugitiveRecovery.com*), which contains names of bounty hunters working in California, the California Bail Agent’s Association, and other bail bond businesses engaged in fugitive recovery throughout California.

Most of the bail fugitive recovery persons contacted, and bail bond companies for which they work were cooperative and provided mailing addresses. However, six bail bond/recovery companies expressed no interest in participating. Many of the individuals contacted were anxious and apprehensive about participating, and were unaware of CRB’s statutory mandate to evaluate the new training requirements.

The fugitive recovery persons who were sent a survey packet comprised a group representing all regions of California. The survey was also sent to some bail agents and private investigators.

After the initial round of surveys was distributed there was very little response. Our follow-up attempts to contact individuals and/or companies revealed a dynamic, quickly changing industry. Many phone numbers had been disconnected and emails bounced back indicating that the companies or individuals we originally contacted were no longer in business. Of the 96 companies contacted, 23 were determined to be out of business within a month (February-March), representing nearly 25 percent of the original total. The majority of those who responded to the survey have been in the business for more than five years. As one of the respondents descriptively put it, “It’s either feast or famine,” when working in the recovery field.*

Out of 160 surveys sent to bail fugitive recovery persons, only 21 were returned, representing about a 13 percent response rate. This low response rate could be attributed to the fact that not all 160 potential respondents were bail recovery persons, and, as mentioned above, many people cycle in and out of the business. While this response rate is disappointing, the responses do appear representative of the industry at-large based on a similar survey undertaken by academic researchers in 2002 with the assistance of the Professional Bail Agent Associations in three states (Tennessee, Texas, and Georgia), which had a 12 percent response rate.⁴¹

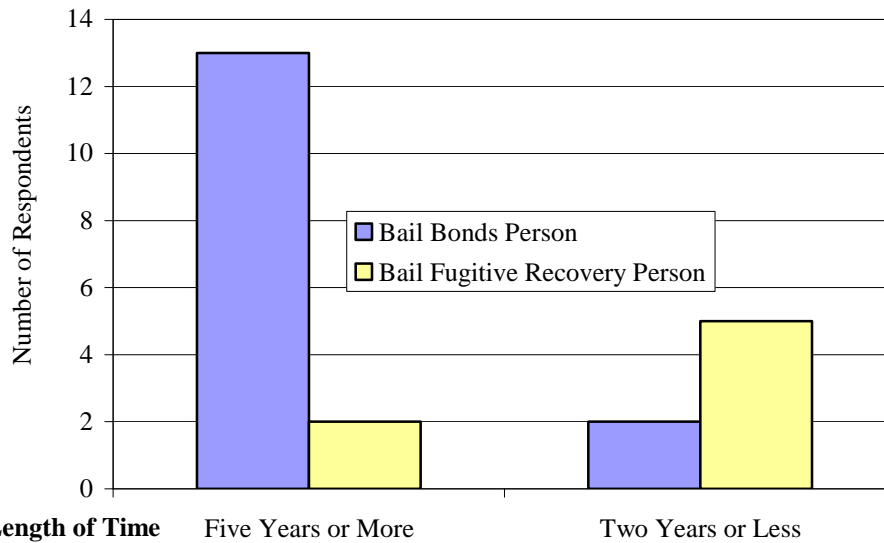
Some bail fugitive recovery persons apparently chose not to participate in the CRB survey. One displayed his dissatisfaction by returning the survey ripped into pieces, writing, “GET REAL, STOP WASTING STATE FUNDS ON...!” on the back of the returned envelope. In contrast, another respondent went out of his way to help distribute our survey to any and all interested parties. This individual, who sits on the board of the CBAA, provided copies of the survey to other individuals in the bail recovery business. He found that there was little interest in responding to the survey.

So what did this limited number of respondents have to say, and can we draw any general conclusions from this group?

About 62 percent (13) of the respondents were licensed bail agents while 38 percent (8) were strictly bail recovery persons. When asked how long they had been involved in fugitive recovery, the response was about the same; about two-thirds had more than five years experience in bail recovery while one-third had been in the recovery business for less than two years. These responses, supported by the literature and anecdotal evidence, suggests that individuals undertaking bail recovery work in California are trained veterans who have been in the field as long, or longer, than the Bail Fugitive Recovery Act has been in effect (2000).

* Telephone conversation with a bail fugitive recovery person working in the northern Sierra region of California, May 11, 2007.

Chart 5
Length of Time and Type of Background of Individuals Responding in
CRB Survey Undertaking Bail Fugitive Recovery Work in California, 2007



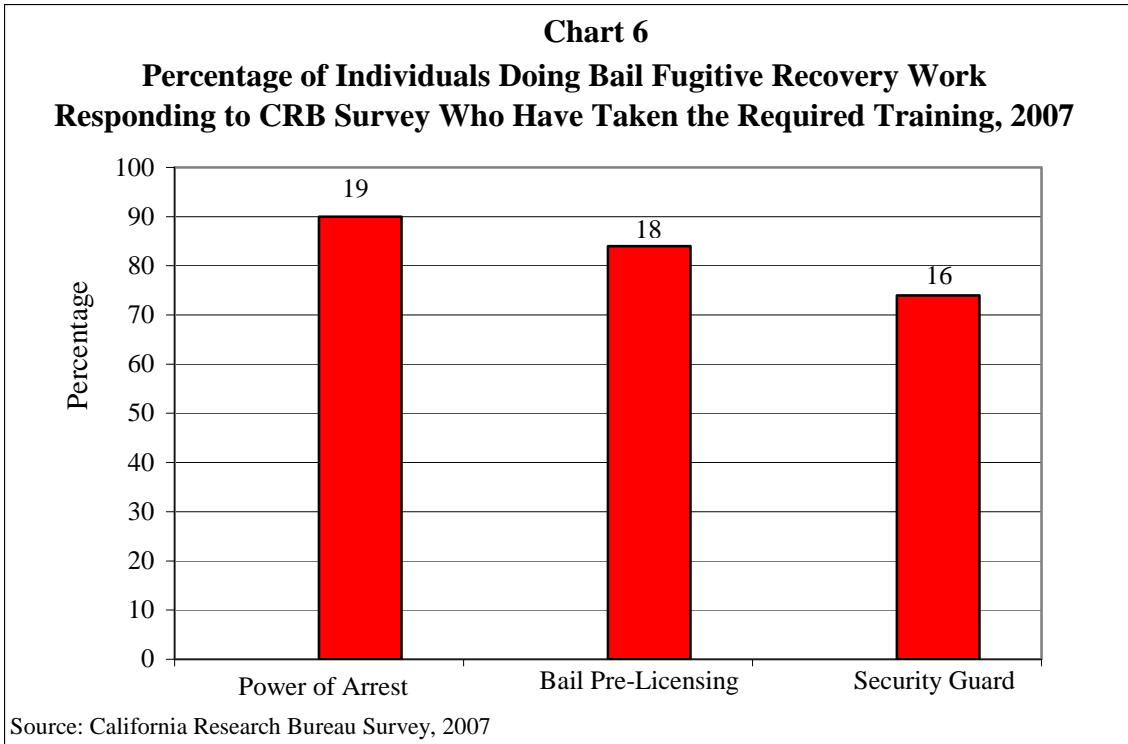
Source: California Research Bureau Survey, 2007

Required Classes

Nearly 90 percent (19/21) of the respondents have completed the *PC 832* requirement (40-hour *Power to Arrest* course), 85 percent (18/21) have completed the 12-hour bail pre-licensing course, and 75 percent (16/21) have completed the 8-hour Security Guard training course.

For those who have not completed the courses, their stated reasons are as follows:

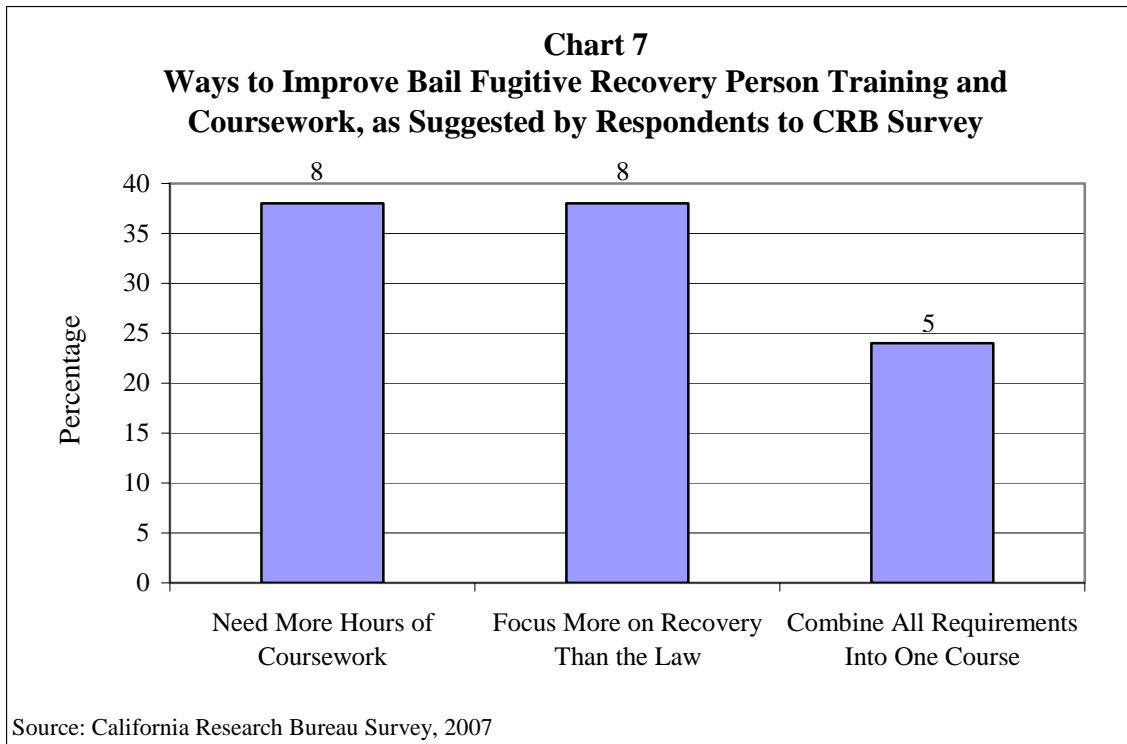
- Security guard training does not benefit anyone in the recovery field
- They will complete the courses sometime in the near future
- They have not completed the courses because they are licensed private investigators



In response to a survey question asking the respondents' opinion as to whether taking the required courses had helped them become more effective in doing their job, a slight majority (56 percent) said the training had not helped them. Of the 44 percent of respondents who said the new coursework requirements had helped, the most common reasons were:

- Added a degree of professionalism that was not there before
- Improved their knowledge of laws and rights of fugitives
- Improve their knowledge of handcuffing, cardio pulmonary recitation (CPR), and firearms training

A majority of the respondents asserted that the content of the training coursework could be improved to make it more helpful. They suggested more hours of training and a curriculum focused more on fugitive recovery rather than law enforcement. Some also mentioned the need for training in the use of non-lethal weapons such as tazer stun-guns and pepper spray. Several respondents suggested combining all three required courses into one stand-alone course. The majority of the respondents paid for the courses themselves, suggesting they took the initiative in completing the requirements to become a certified bail fugitive recovery person, rather than depending on their employers to cover the expense.



Some bail agents and private investigators who work with or hire fugitive recovery persons responded that many only work weekends or part time, and that only a few can afford to be full time bounty hunters. It is conceivable that many of the individuals who did not respond to the survey are part-timers. They may be less likely to take the required courses and thus less inclined to respond to the survey.

Law Enforcement Notification When Arresting a Bail Fugitive

A key requirement of the California Bail Fugitive Recovery Persons Act involves contacting local law enforcement less than six hours prior to a planned apprehension. *Penal Code 1299.08* states that a bail fugitive recovery person or bail agent must follow a three-step process in notifying the local police or sheriff’s department of his or her intent to apprehend a bail fugitive. Those steps are:

- Indicate the name of bail fugitive recovery person prior to apprehending the fugitive in the affected law enforcement’s jurisdiction and the approximate length of the stay
- State the approximate time the bail fugitive recovery person authorized by the bail bond agent is to apprehend a bail fugitive in the affected law enforcement jurisdiction
- State the name and approximate location of the bail fugitive

We asked survey respondents to describe how they contact law enforcement. The range of responses included:

- Notify the local watch commander when the bail recovery person enters the area
- Provide the local police with contact information, duration of expected time in location, and indicate whether the bail recovery person is armed or not
- Notify law enforcement upon visual sighting of the suspect
- Notify when entering and leaving the jurisdiction
- Provide the law enforcement agency with the fugitive's information (name, warrant number, vehicle description) upon receiving a lead

Only one of the respondents admitted not contacting local police, claiming "Only when necessary, most of our skips are primarily routine pick-ups, officers are not necessary."⁴² In this case, the bail fugitive recovery person calls police only if an arrest situation gets out of hand, rather than taking a preventative measure (as required by *PC 1299.08*) and alerting local law enforcement prior to the attempted apprehension.

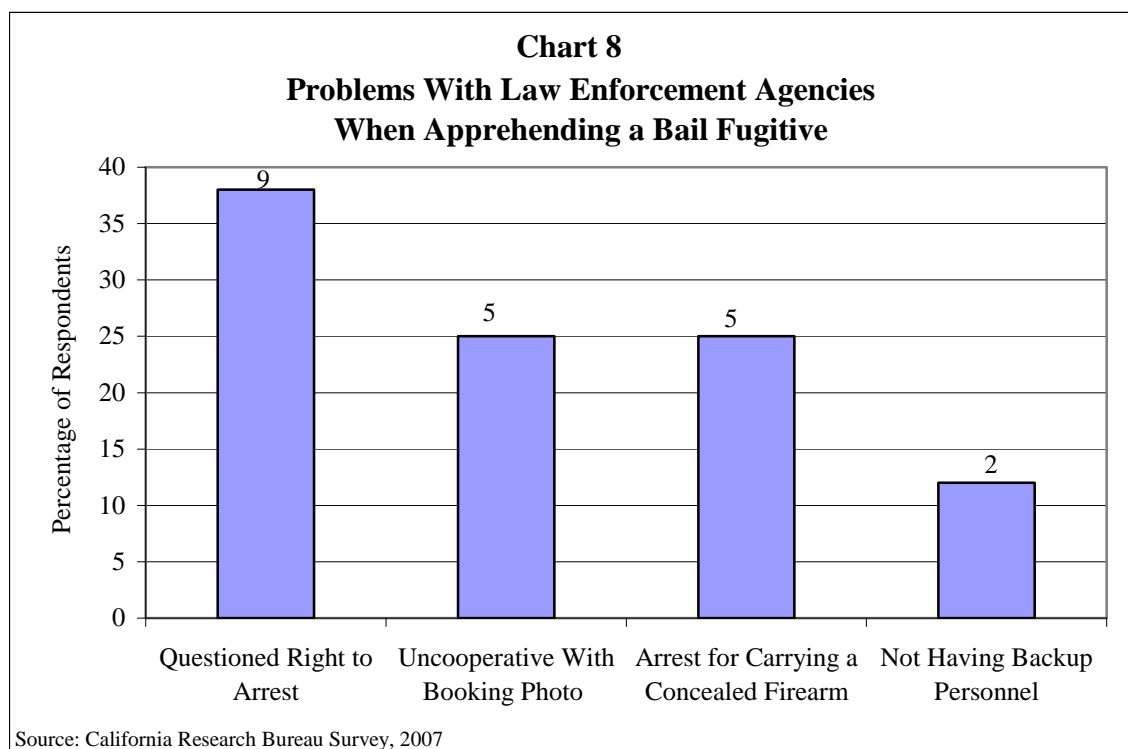
The intent of *Penal Code § 1299.08* is to reduce miscommunication and resolve frustrations between bail fugitive recovery persons and law enforcement. ♦ When asked if they had any issues with law enforcement agencies in the course of apprehending bail fugitives, survey respondents had a variety of responses. Over a third of the respondents cited numerous ways in which they have had problems with local law enforcement while arresting a fugitive. These included:

- Questioning their right to arrest
- Not having enough back-up from law enforcement personnel
- Lack of cooperation in providing booking photos of fugitives
- Poor sharing of warrant information
- Being arrested for allegedly carrying exposed weapons (cases that were eventually dismissed)

However, a slight majority of respondents (13/21) did not have any issues with law enforcement prior to, or when, arresting a bail fugitive.

Penal Code 1299.07 prohibits bail fugitive recovery persons from wearing any type of uniform or badge that could be mistaken for law enforcement. However, many agents wear popular bail agent, or bail enforcement agent (BEA) logo wear. This clothing dominates online recovery person apparel and merchandise websites, and appears to be official in nature.

♦ According to the Assembly analysis of AB 243 (Assembly Member Wildman 1999), the purpose of the bill was to require that bail recovery fugitive persons complete some educational training and communicate their intentions to local law enforcement.



Carrying a Firearm

The subject of firearms and bail fugitive recovery is complex and clouded with misinformation. As previously discussed, one of the requirements of *PC 1299* is that bail fugitive recovery persons complete the eight-hour security guard course offered by the Bureau of Security and Investigative Service (BSIS). The main function of a security guard is to observe and protect. The BSIS course centers on educating potential security guards about their limited power to arrest. The course emphasizes the difference between a security guard and a peace officer and instructs security guards on the power to arrest as a citizen. There is no mention of bail fugitive recovery work at anytime during the eight hour course. According to the BSIS official, a bail fugitive recovery person is only required to complete the course and subsequently carry a copy of the certificate on their person while engaging in recovery work, rather than becoming licensed as a security guard.

The only instance in which a bail fugitive recovery person would want to obtain a license (guard card) is if they choose to pursue both professions simultaneously.⁴³

When asked how often they carry a firearm, half of the respondents indicated that they carry between 75 percent and 100 percent of the time. One of the respondents mentioned that less than lethal weapons such as mace and batons could be used to subdue fugitives without the lethal risks of firearms. He suggested that these types of methods be included in the training requirements of *PC 1299*. After completing the course, an individual can

complete (but is not required to take) an additional 14 hours of firearm training offered by the BSIS and receive a California Exposed Weapons Permit (CEWP).

Some bail fugitive recovery persons believe that by taking the CEWP course they can legally carry their sidearm while arresting a bail fugitive. Over half of our survey respondents (12/21) claimed to be in possession of a CEWP, and three mentioned *Penal Code 12031(k)* as providing their legal right to possess firearms during fugitive apprehensions. This section in the *Penal Code* states that:

“Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.”

However, according to a BSIS official we interviewed, the firearm course curricula is designed for security guards, not bail fugitive recovery persons, and *Penal Code § 12031* does not list bail fugitive recovery persons as an authorized occupation to carry an exposed firearm. The CEWP is only valid for security guards, guards of common carriers involved in the shipment and transportation of money, bonds, and bullion, contract carriers operating armored vehicles, alarm agents, private investigators, and private patrol operators who are in full uniform and on duty.⁴⁴ The CEWP does not apply to bail fugitive recovery persons even if they complete the security guard course; according to the same BSIS official,

“Any bail fugitive recovery person currently using the CEWP believing they are protected by law, are in clear violation of California law.”⁴⁵

While there is no California case law interpreting *Penal Code § 12031(k)* on the issue of whether a bail recovery person agent may carry a loaded firearm while performing his duties, an opinion letter written by the California Attorney General at the request of Ventura County District Attorney states;

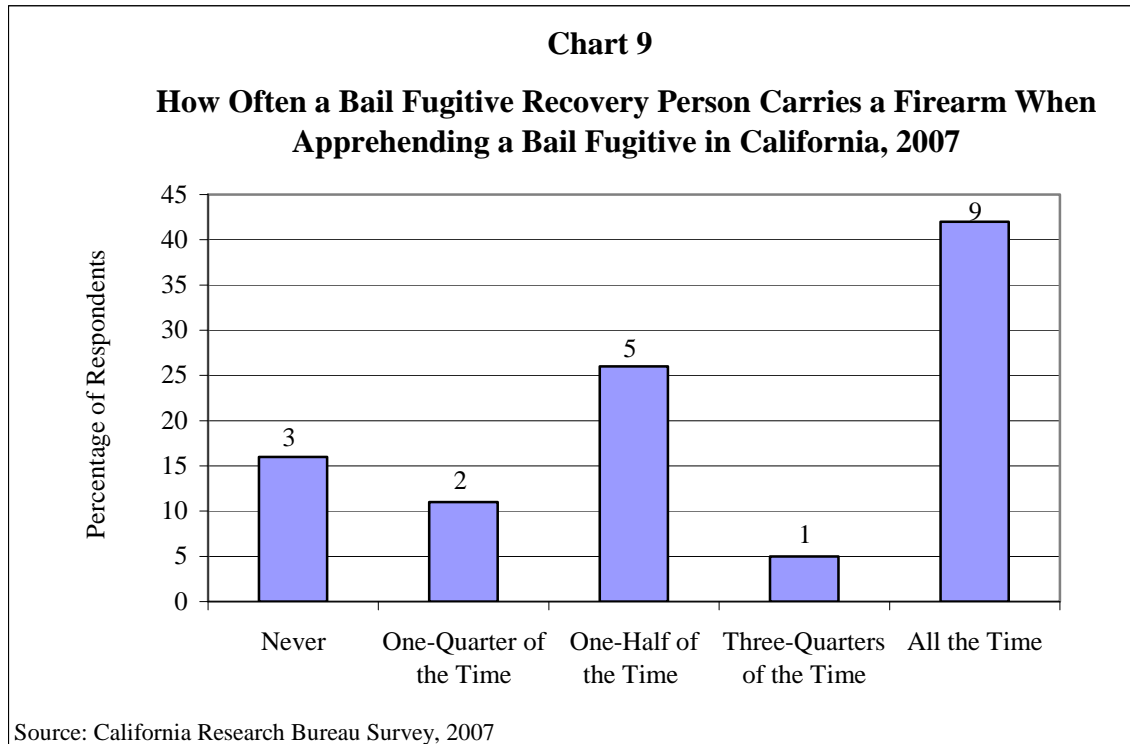
“Section 12031(k) ... does not cover bail agents per se, but bail agents may come within its exemption language depending upon their conduct Accordingly, a bail agent may, upon request of the surety liable for the undertaking, arrest a defendant and transport him to a court, magistrate, sheriff, or police as directed. Although a bail agent has no explicit statutory authority to carry a loaded firearm when performing his duties, he is not precluded from doing so in limited circumstances. Like any person who does not have a permit to carry a firearm, he may carry a loaded firearm while engaged in the act of making or attempting to make a lawful arrest of a defendant (§ 12031, subdivision k).”⁴⁶

More recently, a 2001 law suit filed in U.S. District Court alleged that the Signal Hill City police wrongfully arrested a bail fugitive recovery person for carrying a loaded firearm while pursuing a bail fugitive. However, the District Court concluded that:

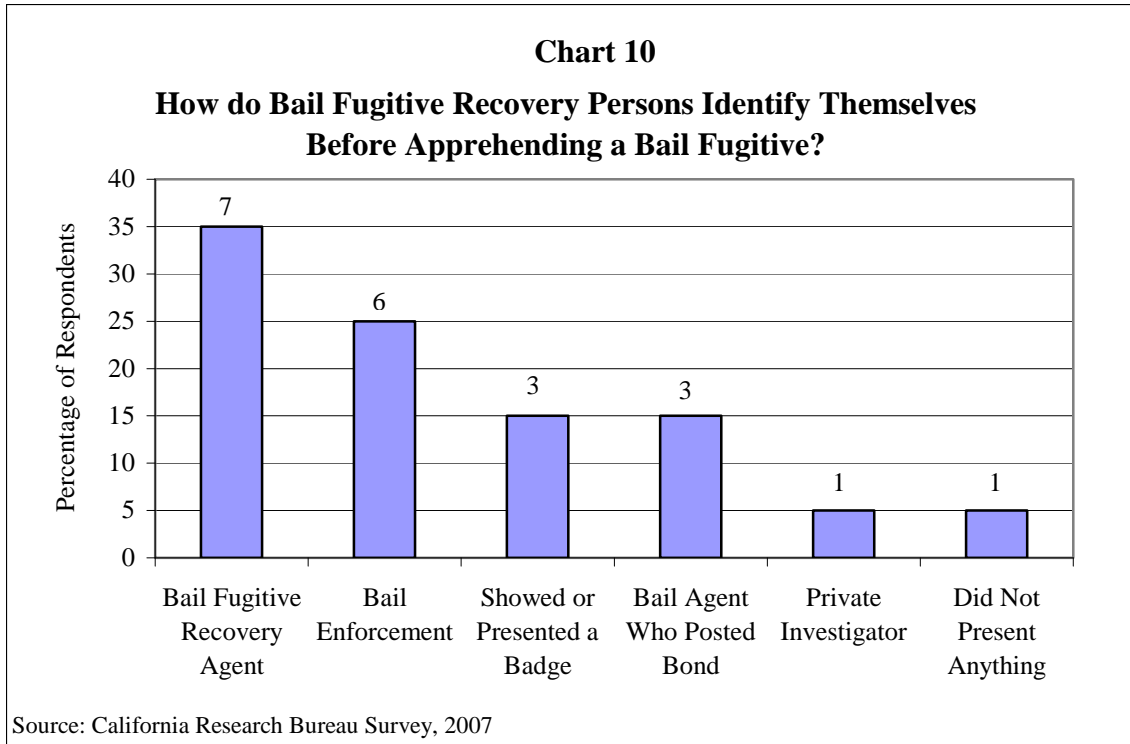
“The plaintiff’s acts fell outside of *Penal Code § 12031(k)* because he was not attempting to make an arrest when he was in his car a half-block away

from where the fugitive was located. The travel time to the location where the fugitive was located was preparation, which was distinguishable from taking immediate and substantial steps in the execution of an arrest. Moreover, defendants had qualified immunity given the lack of legal authority addressing the application of § 12031(k) to bail agents.”⁴⁷

Based on the Attorney General’s opinion and U.S. District Court decision it appears that a bail fugitive recovery person can carry a loaded firearm while making an arrest.



Another issue addressed in the survey was how a bail fugitive recovery person identifies him/herself when apprehending a fugitive. This issue is important because after hours of investigative work, possibly hundreds of miles traveled, and many dead-end leads, getting the fugitive to comply with a command to surrender is the most difficult part of the apprehension. The majority of respondents favored announcing themselves as *Bail Fugitive Recovery Agents* or *Bail Enforcement*. Three respondents stated that they use a uniform and badge (a potential violation of *PC 1299.07* because only law enforcement personnel can wear badges while making an arrest). Three of the respondents identify themselves as the bail agent who posted bond. One individual identifies himself as a private investigator, while another waits until the fugitive is in his custody before identifying himself, not wanting to risk a chance of the fugitive fleeing the scene.

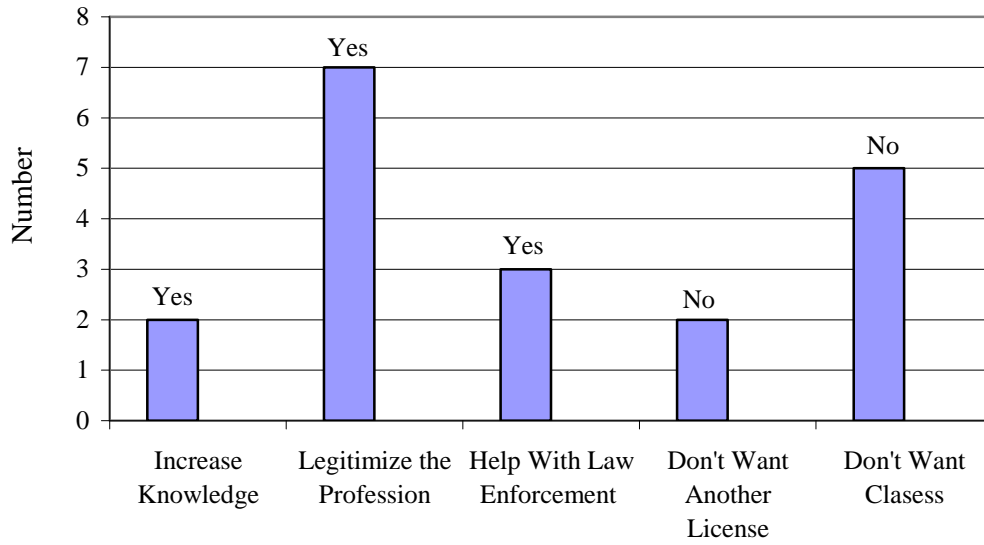


The final portion of our survey asked if the respondents support the notion of a California bail fugitive recovery person license rather than the current legal requirement of carrying three training certificates. Thirteen of the 21 respondents, roughly two-thirds, said they do support a bail fugitive recovery license, for the following reasons:

- It would increase the knowledge and experience of individuals in the field
- It would identify bail fugitive recovery persons to law enforcement
- It would enhance professionalism
- It would ensure training appropriate for the occupation
- It would enhance public safety

Some of the responses included the stipulation that only licensed private investigators or former law enforcement officers should be eligible. Respondents opposed to the concept of a bail fugitive recovery license contend that no further state licenses are needed and that they do not want to have to take any additional classes.

Chart 11
Responses About a License Requirement to be a
Bail Recovery Fugitive Person



Source: California Research Bureau Survey, 2007

VI. OPTIONS

The preceding discussion illustrates the difficulty of identifying bail fugitive recovery persons in California and ascertaining the amount of training they have received, as required by the Bail Fugitive Recovery Person Act in 1999. After our survey, there remain as many questions about this industry as there are answers. In general, survey respondents divided into two groups, those who want to comply with state law and those who feel current law poses an unneeded burden and does not help them. While not necessarily recommendations of the authors or the California Research Bureau, the following are potential options for action.

Licensing vs. Certification

The desire expressed by a majority of bail fugitive recovery person survey respondents for a license is a logical response to their unclear legal status. Current law lacks the oversight and accountability that would be needed to effectively regulate the industry. In addition, having to carry three training certificates does not enhance the credibility of bail fugitive recovery persons when encountering the general public, fugitives, or law enforcement. In some cases, the certificates create more confusion because the documents have no clear authenticity and do not carry the seal of California.

- The Legislature could require the appropriate state agency to develop a new license for bail fugitive recovery persons with suitable requirements, similar to that which bail bonds agents carry when they do business. For example, candidates in the state of Washington must take POST-certified courses and pass a test.
- The Legislature could require the appropriate state agency to investigate what other states are doing to regulate individuals who perform bail fugitive recovery work and to make recommendations, working in concert with the bail industry, for example, establishing basic educational requirements.
- The bail industry and other industry sources involved in bail bonds and recovery actions could assist in developing the new licensing curricula and accountability system.
- The appropriate state agency could levee a charge on all prospective licensees to cover the cost of operating this program.

Training Requirements

Almost unanimously, the survey respondents believe that the current training curriculum in all three required courses is inadequate for bail fugitive recovery persons, given that the courses are designed for other bail bonds persons and security guards. In addition, the fact that the three courses are regulated by three separate agencies (BSIS, POST, and Department of Insurance) is inconvenient, tailored for other purposes, and leads to inefficient oversight and accountability. For example, the POST control number provided on the Certificate received upon completion of the *Penal Code § 832* coursework are not readily available for verification and cannot be cross referenced

against the other two courses. Thus there is no way to know if an individual has completed all three courses as required. With courses given at multiple schools to satisfy different agency requirements, there is minimal quality control.

The 12 hour course on bail law provides little to no information regarding laws of arrest. The majority of the coursework is designed to inform and educate potential bail agents on bail law, the application process, and the overall bail industry. In our opinion after attending the training, only two hours of the coursework actually relates to the work of a bail fugitive recovery person. In addition, the course does not cover the details of *Penal Code § 1299*, or how to utilize information databases to track and apprehend a bail fugitive. This aspect of the training is left for the individual to investigate on their own time. Finally, the current training requirements do not include “hands-on” application in the use of non-lethal weapons such as tazer guns and pepper spray that some bail fugitive recovery respondents contend is very important to their jobs.

The BSIS is in charge of and oversees the eight-hour security “guard-card” course, designed primarily for security guards but also required for bail fugitive recovery persons. There is no mention of bail fugitive recovery work anytime during the course. There is also no record of who takes the course for purposes of becoming a bail fugitive recovery person, although the BSIS issues a certificate of completion.

- The Legislature could require the Peace Officer Standards and Training (POST) to include new elements in the required coursework such as incapacitation devices and improving record keeping.
- The Legislature could amend the current law by specifying one course, perhaps developed by Peace Officers Standards and Training (POST), which would satisfy all bail fugitive recovery person training requirements.
- In creating a new course, key issues include the length and content of the current training course and instructor standards, and rules about law enforcement notification, carrying firearms, and appropriate clothing.

Consolidate Data Collection

Three state agencies currently have some oversight responsibility for bail fugitive recovery persons training, but they do not keep good records of the individuals who complete the coursework. Those agencies include POST, the Department of Insurance, and the State Bureau of Security and Investigative Services. In addition, only one of the 44 schools involved in the POST *power of arrest* training keeps records that distinguish students from one another. Most instructors do not know if a student intends to use the training for the purpose of becoming a bail fugitive recovery person unless the student discloses it to them directly.

There are two organizations in the state (the California Bail Agents Association and the Bail Resource Center) that contract with the State Department of Insurance to provide the 12 hour bail law coursework required for bail fugitive recovery persons in California.

These two organizations do not keep detailed records about course enrollees and can only provide information about the identity and number of individuals who have completed the course since 2000.

- The Legislature could task a designated state agency to convene a task force made up of appropriate state agencies and industry sources to recommend the best approach to consolidate the data collection and record-keeping functions necessary for course certification and/or a future license for bail fugitive recovery persons, in order to enhance accountability.

State Judicial Council Data

The State Judicial Council has no involvement in the certification or licensing process but does collect forfeited bond data. This data might allow us to gauge the extent of bail fugitive recovery in California. However, the Council's financial data is not public and cannot distinguish between bail skips and driving offenses forfeitures.

- For statistical and financial purposes, the Legislature could require the State Judicial Council to provide a more detailed analysis in its annual reports to distinguish bail forfeitures for driving offenses from other misdemeanor and felony bail forfeitures.

Exposed Weapons Permits and Bail Fugitive Recovery Persons

Although bail fugitive recovery persons may take either the firearm course required for the “guard-card” or the exposed weapon permit, the curricula is not designed for them. In addition, the *Penal Code § 12031(k)* and BSIS regulations do not list the bail fugitive recovery person as an authorized occupation to carry an exposed firearm. The listed types of personnel authorized to carry an exposed firearm all wear uniforms and badges to reflect their official status.

Our survey found confusion among responding bail fugitive recovery persons relative to the law. Over half are in possession of an exposed weapon permit, and three mentioned *Penal Code § 12031(k)* as assuring their legal right to possess firearms during fugitive apprehensions, although that section does not authorize bail fugitive recovery persons to carry exposed firearms. In fact, local law enforcement sometimes arrest bail fugitive recovery persons for carrying an exposed weapon in the course of apprehending a bail fugitive.

- The Legislature could amend the state *Penal Code § 12031(k)* to explicitly include bail fugitive recovery persons as authorized to carry an exposed firearm along with security guards, private patrol, and private investigators.
- The Legislature could require the BSIS to develop a separate training module for bail fugitive recovery persons that appropriately covers the requirements of an exposed firearm.

- The Legislature could require that POST and the BSIS, along with industry groups, review current strategies for exposed firearm training and licensure, and recommend changes.

There is a limited mandate for bail fugitive recovery persons carrying an exposed firearm based on an Attorney General's opinion and U.S. District Court ruling.* But the statutory scheme is unclear on what the limited window of time is in which a bail fugitive recovery person can carry an exposed weapon in order to effectuate an arrest.

- The Legislature could require the appropriate state agencies to develop explicit guidelines that detail under what circumstances a bail fugitive recovery person may carry an exposed firearm. This review could also include law enforcement notification ("under six hours" before apprehension is a variable standard).

* 81 Opp. Attorney General California. 257, July 29, 1998. *David W. Golt, Plaintiff, v. City of Signal Hill, etc., et al., Defendants*. Case No. 00-6956 CM (SHx), U.S. District Court for Central California, March 7, 2001.

DEFINITION OF TERMS

Bail fugitive (also known as skip or bail jumper). A defendant in a pending criminal case who has been released from custody under a financially-secured appearance bond and has had that bond declared forfeited by the court for failure to appear, or a defendant in a pending criminal case who has violated a condition of release on bail whereby apprehension and re-incarceration is permitted.

Bail fugitive recovery person. A person who is given written authority (*Penal Code § 1300-1301*) by a bail licensee or surety for the purpose of assisting in apprehending or surrendering any bail fugitive, or keeping a bail fugitive under surveillance, and who has contracted to assist a bail licensee or surety in locating, investigating, apprehending, or surrendering any bail fugitive.

Bail licensee. A person licensed by the Department of Insurance as a bail agent, bail solicitor, or a bail permittee.

Surety. Security against loss or damage; a person who has assumed legal responsibility for another.

Bail bond. Money given as surety that a person released from legal custody will return at a set time.

Bond forfeiture. The act of forfeiting or giving up the bail bond.

Defendant. One against whom a legal action or suit has been brought to court.

Required steps to initiate a bond forfeiture lawsuit. When a defendant fails to appear in court, there is a simultaneous issuance of a warrant for the arrest of the defendant and the initiation of a civil lawsuit aimed at collecting the forfeited bond. Final judgments are entered in the amount of the bond, plus court costs. It is at this time that a bail bond agent may hire a bounty hunter to assist in apprehending the fugitive in order to recover losses.

APPENDIX A

CALIFORNIA BAIL FUGITIVE RECOVERY PERSON SURVEY

The attached survey is intended to gather current information about the implementation of training and certification requirements for persons presently qualified to be Bail Fugitive Recovery Persons in California. The survey was developed with the help of the California Bail Agents Association. The data collected will be used to assess compliance with the requirements of California Penal Code Section 1299. Most of the questions ask that you simply check “yes” or “no” in the appropriate box, or fill in the blank. Some questions ask that you further explain your answer. Please consider this an opportunity to evaluate the Bail Fugitive Recovery Persons Act by providing us with insights into how well it is functioning. The survey should take about ten minutes to complete and all answers will remain confidential. Thank you for taking the time to complete this survey.

PLEASE RETURN THIS SURVEY BY NO LATER THAN APRIL 20, 2007 TO:

Marcus Nieto
California Research Bureau
900 N Street, Suite 300
P.O. Box 942837
Sacramento, CA 94237-0001
Phone: (916) 653-7381

If I or my staff can be of assistance in any way, please call me by phone or email at:
mnieto@library.ca.gov or Paul Lewicki at plewicki@library.ca.gov

County _____
Address _____
Phone Number _____
Email _____

Thank you for your valuable assistance.

Would you like a copy of the final report?

Yes _____

No _____

1. Are you a licensed bail agent?

Yes _____

No _____

2. How many years have you been a Bail Fugitive Recovery Person? _____

3. If you have been a Bail Fugitive Recovery Person agent for more than 7 years, have you taken any of the training even though it is not required?

(3a). Not applicable (have been an agent for less than 7 years) _____

(3b). If not, do you think the training would be useful?

Yes _____

No _____

(3c). If yes, please explain why you believe the training would be useful.

4. Have you completed the three training requirements mandated by *Penal Code Section 1299*?

40-hour power of arrest training Yes_____ No_____

12-hour bail law pre-licensing Yes_____ No_____

8-hour security guard training Yes_____ No_____

5. If you have not completed one or more of the courses, why not? Please explain below.

6. If you have completed the training requirements, have they helped you to be more effective in doing your job as a Bail Fugitive Recovery Person?

Yes _____

No _____

(please explain below why this training was effective).

7. In your opinion, can the content of the training coursework be improved to make it more helpful in doing your job?

Yes _____

No _____

(please explain below how the coursework can be improved).

8. How many training courses did your employer pay for?

None _____

One _____

Two _____

Three _____

9. What is your current employment status?

Full time _____

Part time _____

10. Do you contact law enforcement prior to the planned apprehension of a bail fugitive?

Yes _____

No _____

If yes, please explain the procedures that you follow. (If not, why not?)

11. Have you had any issues with law enforcement agencies in the course of apprehending a bail fugitive?

Yes _____

No _____

(If yes, please explain below)

12. Are you required by your employer to carry a firearm while tracking/apprehending fugitives?

Yes _____

No _____

13. Have you obtained a California Exposed Weapons Permit?

Yes _____

No _____

14. If you do carry a firearm in the course of your job, how often is that?

One-fourth or less of the time _____

One-half of the time _____

More than half of the time _____

All the time _____

15. How do you identify yourself during the apprehension of fugitives? (Please describe briefly).

16. Do you support the notion of a California Bail Fugitive Recovery Persons license rather than the current certification process?

Yes _____

No _____

(Briefly explain)

Thank you for your assistance.

ENDNOTES

¹ Staff Reporter, "Taking the Law into Their Own Hands," *U.S. News and World Report*, August 21, 1995.

² *Ibid.*

³ U.S. House of Representatives, Bounty Hunter Responsibility Act of 2005, *Before the Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary*, House of Representatives, 109th. 109th Congress, First Session, on H.R. 2621, May 25, 2005. Washington D.C.: U.S. G.P.O.

⁴ California State Senate, Committee on Public Safety, "Analysis of AB 2733," July 7, 1998.

⁵ W.C. Chamberlin, "Bounty Hunters: Can the Justice System Live Without Them?" *University of Illinois Law Review*, No. 4, 1998, pp. 1175-1205.

⁶ Ronald Burns, Patrick Kinkade, and Leone Matthews, "Bounty Hunters: A Look Behind the Hype," *Policing: An International Journal of Policing Strategies and Management*, Vol. 28, No.1, November 2005, p. 120.

⁷ Caleb Foote, "The Coming Constitutional Crisis in Bail." *113 Pennsylvania Law Review*, 1965, pp. 959-968.

⁸ W. H. Thomas, "Bail Reform in America," *University of California Press*, Berkeley, CA, 1976.

⁹ Ronald Burns, Patrick Kinkade, and Leone Matthews, "Bounty Hunters: A Look Behind the Hype," *Policing: An International Journal of Policing Strategies and Management*, Vol. 28, No.1, November 2005, p. 123.

¹⁰ Jonathan Drimmer, "When Man Hunts Man: The Rights and Duties of Bounty Hunters in the American Criminal Justice System," *Houston Law Review*, 33, 1996, p. 749.

¹¹ W.C. Chamberlin, "Bounty Hunters: Can the Justice System Live Without Them?" *University of Illinois Law Review*, No. 4, 1998, p. 1181.

¹² *Ibid.*

¹³ Jonathan Drimmer, "When Man Hunts Man: The Rights and Duties of Bounty Hunters in the American Criminal Justice System," *Houston Law Review*, 33, 1996, p. 750.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Jacqueline Pope, "Bounty Hunters, Marshals, and Sheriffs: Forward to the Past," Praeger Publishers, Westport, Connecticut, 1998.

¹⁷ Professional Bail Agent of the United States, *In Service to America*, Professional Bail Agents of the United States, Washington D.C., 2002.

¹⁸ *Taylor vs. Taintor*, 16 Wall. U.S. 366-372, 1872, and *Nicolls v. Ingersol*, 7 Johns, 145, 154 New York, 1810.

¹⁹ Professional Bail Agent of the United States, *In Service to America*, Professional Bail Agents of the United States, Washington D.C., 2002. in Ronald Burns, Patrick Kinkade, and Leone Matthews, "Bounty Hunters: A Look Behind the Hype," *Policing: An International Journal of Policing Strategies and Management*, Vol. 28, No.1, November 2005, p. 122.

²⁰ Personal interviews conducted by bail agents presented in the 2002 Professional Bail Agent of the United States study, and cited in Ronald Burns, Patrick Kinkade, and Leone Matthews, "Bounty Hunters: a Look Behind the Hype," *Policing: An International Journal of Policing Strategies and Management*, Vol. 28, No.1, November 2005, p. 122.

²¹ *California Penal Code § 1269(b)*.

²² *California Penal Code § 1269(f)*.

²³ *California Penal Code § 1269(c)*.

²⁴ U.S. Department of Justice, Bureau of Justice Statistics. Special Report, State Court Processing Statistics, 1990-2002, *Violent Felons in Large Urban Counties*, NCJ-205289. Washington D.C.: The Department, July 2006.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ American Legislative Exchange Council's Criminal Justice Task Force, *Runaway Losses: Estimating the Costs of Failure to Appear in the Los Angeles Criminal Justice System*, "The American Legislative Exchange Council, Washington, D.C., May, 1997.

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