

## BAIL REFORM AND PRETRIAL RELEASE: OUR CLIENTS SHOULD HAVE A CHOICE

Across the United States, calls for criminal justice reform are coming from every political and socioeconomic corner. Rapper Meek Mill and music mogul Jay-Z have created the Reform Alliance, an organization dedicated to probation and parole laws. New England Patriots owner Robert Kraft, Philadelphia 76ers co-owner Michael Rubin, and hedge fund manager Daniel Loeb – among others – have pledged \$50 million to that cause. The First Step Act became federal law a year ago, providing relief to thousands of federal inmates and defendants. And, notably, many states and local jurisdictions have begun instituting bail reform, a long-overdue and righteous endeavor, to be sure.

Bail reform is necessary. As the gap between the billionaire and working classes widens in America, the traditional monetary bail system has created modern debtors' prisons where the poor simply will not get out of jail even for the most trivial of offenses.

However, monetary bond is still an objectively better option for most of our clients in Orange County when compared to its administrative counterpart, pretrial release. Consider the facts.

In Orange County, administrative order 2003-39-24 sets the bond schedule, a pre-determined list of monetary bonds that are automatically set on new offenses. Excluding drug trafficking offenses, for which the bond schedule ranges from \$25,000 to \$1,500,000, scheduled bonds range between \$250 and \$25,000. Thus, based on current local practices, in which collateral is typically not required by the court or bail agent, the average arrestee can bond out of jail for \$100 to \$2,500 for the most serious alleged offense, with bonds for additional counts being set at \$100 or \$150.

The reality, then, is that most of our clients can afford to bond out of jail, and "bail reform," or pretrial release (PTR), should be directed at those truly indigent individuals with no means to afford a monetary bond.

Bail agents, and the traditional bonding system, are in most cases a better alternative for our clients.

Orange County PTR, while perhaps appropriate for some clients, is an unnecessary and possibly unconstitutional burden for most. PTR mandates a regimented release structure that is even more restrictive than that of probation – a form of supervised punishment – reserved for those *convicted* – not *merely accused* – of committing crimes. More troublesome still, clients are routinely being placed on PTR without a choice to use a bail agent, even, in some instances, when they have asked for the court to set monetary bond at their initial appearance.

PTR requires, at a minimum:

- Frequent in-person reporting to a pretrial release officer
- Travel restricted to the state of Florida
- Mandatory fees
- Possible random urinalysis
- Weekly calls to the Clerk of Court to check on upcoming court dates

Bail agents provide valuable services to the client and the court without unnecessarily impinging on the freedoms of the accused. For instance, bail agents Mike and Dondi Smith provide services far beyond merely securing a client's release from custody. Those services include:

- Informing clients of upcoming court dates
- Monitoring compliance with court orders and conditions of release
- Testifying at bail hearings
- Approving reinstatement of bond when minor violations of release occur
- Arranging pre-arrest and post-release travel
- Finding and contacting employers, loved ones, etc. for clients who have been separated from their phones
- Creating workable payment plans for the bond premium, even for \$100 bonds
- Forging relationships with family members and loved ones to craft meaningful restrictions in more extreme circumstances, including curfew, attending school, obeying parental orders, etc.

The courts and public also benefit from a skillful bail agent. In the event that a releasee violates his or her conditions of release, the bail agents have full arrest powers. They can – and will – return noncompliant clients to custody. Bail agents will do this because they have a vested financial interest in returning the client to custody. Moreover, none of this comes as a surprise to the client. They are apprised of the bail agent's responsibilities and interests from the outset.

Finally, all of this is accomplished without a dime of expense to the taxpayer. Conversely, if an arrestee violates pretrial release, a warrant is issued and the Sheriff's Office must attempt to locate the offender and serve the warrant. This creates a backlog of arrest warrants to serve and thus less effective policing for the community.

Clearly, then, bail agents serve an invaluable service to our clients, the courts, and the community—24 hours a day, 7 days a week. These services are not and cannot be replicated by pretrial services officers. Our clients, and the public, deserve a choice. Say no to PTR.

When you are facing a serious allegation, it is important to work with an attorney who has the experience and tenacity to protect your interests. Defense lawyer Jonathan Rose has 20 years of experience representing clients in Orlando and throughout the state of Florida who are facing criminal charges or professional disciplinary proceedings. Mr. Rose also represents clients in federal courts throughout the nation. As a former Marine, Mr. Rose is not afraid to take on the most challenging cases. He believes strongly in your right to a defense.