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THE STORY I'M ABOUT TO TELL YOU IS TRUE

THE NAMES HAVE BEEN CHANGED TO PROTECT THE INNOCENT

FREDDIE FELONS HOUSE ARREST FIASCO

Freddie Felon got arrested and the judge set a \$20,000 bail for his release. Not having \$20,000, Freddie's family went to Bobby Bondsman. Bobby agreed to bond out Freddie at the state mandated rate of 15%, which was \$3,000 plus the \$50 posting fee charged by the court for a total of \$3,050. However, Freddie's friends and family could not raise \$3,050 so Bobby agreed to take \$1,050 down and payments monthly during the duration of Bobby's case of \$83.33 for 24 months. No interest or additional fees for the financing. Total cost to Freddie Felon and Family, \$3,050.

But Ozzie Attorney had a different idea. He didn't want Freddie Felon spending that money on a bail bond, he wanted that money to be available for him and his law firm to be able to pick Freddie's pocket for more fees. So, Ozzie had Freddie put on house arrest instead. But what Ozzie didn't take into account was the fiasco that house arrest is. Freddie was responsible for a \$350 deposit plus \$85 per week while he was on house arrest. A total of \$9,190 over the same period. A difference of \$6,140 that Freddie could have used to support his family, pay Ozzie Attorney, live his life while he defended himself. What's more, Freddie lost his job because house arrest didn't release him for 2 weeks after ordered by the court. Even though the judge sent over an order to expedite the release.

So, Freddie "House Arrest" Felon was stuck at home with no job and no income to pay the \$85 for house arrest. His house arrest officer wouldn't allow him to leave home to seek new employment. Unable to make the payments to house arrest, the cost of Freddie's participation in the house arrest program became an expense that the county taxpayers ended up paying, putting the house arrest program further in the negative. Unemployed, Freddie and his family also struggled to avoid eviction.

HOUSE ARREST

In Clark County, the Sheriff's department house arrest program takes up to two weeks to release a defendant depending on the work load that particular week. The program is in most instances substantially more expensive than a bail bond. Plus, the program is significantly in the red losing hundreds of thousands of dollars. Every week we are seeing defendants on domestic battery 1st charges, with no complaining victim and often no witnesses being released on house arrest with stay away orders from their significant other with whom they reside. These people are rushed into hearings within hours of arrest, appointed a public pretender; excuse me, defender as temporary council for the purpose of a 72-hour hearing. They are effectually deprived of their right to choose council. Their jobs are at risk as it takes days for them to be released. They have to find new accommodations as they aren't allowed contact with the alleged victim. And they have to not only bear the cost of the new accommodations, but also the cost of the house arrest and an attorney. A bail bond would under normal circumstances cost \$500 or less to post. Often as little as \$250 to \$300 down and the defendant would be released

within 24 hours. Financially that makes considerably more sense than \$85 a week and two weeks to get out. In the Las Vegas Justice Court, many of the defendants have had no charges even filed. I wasn't aware that Clark County was under martial law and habeas corpus had been suspended.

If a judge felt it necessary; and I would hope only in the event that a complaint was filed and there was a complaining witness; then intensive supervision can be ordered. I don't mean intensive supervision like the program that the Las Vegas Justice court runs where people come in once a week and check in on an automated system. That only works for defendants who would have appeared anyway. I mean a system where they are drug or alcohol monitored or tested, required to attend meetings, classes, or counseling sessions, and perhaps even geo monitored. In 1995 some of your apparently more far sighted predecessors enacted SB416 which created NRS 176A.300 to NRS 176A.370. This un-utilized section of the Nevada Revised Statutes creates the apparatus for surety probation bonds and intensive supervision by the surety. The cost is bourn by the defendant, as it is supposed to be with house arrest. The agent who assumes the supervisory role is potentially at risk of a fine from the court of up to \$15,000 for failure to follow the courts instructions, in addition to the face value of the surety bond that is at risk.

I have been told by a number of LVMPD house arrest officers that they have been instructed by the upper administration of the sheriff's department not to spend time chasing house arrest skips, that they do not have the resources. Instead, wait for Metro to accidently stumble into them. This is perhaps why they also use a monitor system that is so easily removed by the house arrest participants. Go on YOUTUBE and watch the defendants walking into Home Depot and removing their GPS monitors with the tools on the shelf. If this had been a monitor issued by a bail agency, I would expect it to be one of the much more durable models. One of which even guarantees at least a 15-minute window for the defendant to remove it. Giving that the bail agent; who would be on the way immediatly; even if this happened at 4am; have a more then even chance of apprehending the defendant before they absconded. As opposed to the current house arrest system that wouldn't even follow up until sometime the next day.

One of my peers had a defendant on a bond for Domestic Battery 3rd offense, a felony. That defendant cut off the monitor. When he received a tip on the whereabouts of the defendant, he called the Clark County Sheriff's House Arrest Unit to notify them. Their reply: He isn't a priority for us, why don't you go pick him up? Had he been on a monitor with a bail agent who had a bond at risk, someone would have been on the way to take the defendant into custody within minutes. And yes, the bail agents did the job for the sheriff's office, again!

CHANGING BAIL FOR SELF INTERESTS

When a person advocates changing bail laws and/or conditions of defendant release we need to assure that it is for the right reasons, in the public interest, defends the rights of the defendant as well as the public safety, and that justice is served. While AB110, AB125, AB203, and AB325 might release more people to the streets, are they releasing the right people for the right reasons?

This week there were a number of protests advocating the elimination of cash bail. Two different news articles interviewed two different people at length about why it should go away.

The one gentleman mentioned how he had accumulated obstruction of sidewalk misdemeanor charges and subsequently had to be bailed by his parents from the local county jail. It says his parents paid the bondsman \$450 to secure his release. Prima facia, that seems like an injustice. Now let's look at the whole picture. This gentleman accumulated 3 cases and failed to follow the terms set upon him by the court. These are misdemeanors and in resort communities like Las Vegas, blocking the sidewalks is not only a hazard, but can have an adverse impact on the economy in a number of ways. The court was patient with this gentleman, but he continually repeated and then failed to obey the court, hence he went to warrant. He was booked on 2 counts in one case, \$1,000 bond each, which in accordance with NRS 697 and NRS 4.0.6.0 was a fee of \$300 to the bonding company and another \$50 to the state. The second case was 1 count, \$150 to the bonding company and \$50 to the state. This gentleman had prior counts to this and has subsequent counts since. He wasn't being unfairly incarcerated, he was in warrant for failing to appear in court. He has had 2 more cases since then for similar offenses, the last being this last fall. He refuses to respect the court or others. How do you propose to give this man a free pass, at the expense of the people who elected you to those chairs you now sit in, and guarantee that he will exhibit respect for our laws?

In the other article, a woman spoke about how many times she has been arrested for traffic warrants, not moving violations, continues to drive, but cannot pay the fines. I'm sorry to say, driving is a privilege, not a right. She violated that privilege, would not follow the rules that are set for the rest of us, and now expects us to foot the bill for her. A quick look at her court history shows years of criminal traffic offenses. No insurance over and over. Moving violations. No license. And guess what, currently she has 2 active warrants in the City of Las Vegas! Should she get a free pass too?

It might surprise you to learn that most of the bail bondsmen have quit posting bonds for traffic warrants, at least in Las Vegas. If someone has no respect to show up to the court on something as small as a traffic warrant, they aren't suddenly going to respect the court because they were bonded out. These are the bonds that most commonly go bad for bail agents. It costs us more money to chase them than we collected for the bonds in the first place.

While we agree that traffic charges (except DUI, Reckless Driving, and No Insurance) need to be decriminalized and made civil offenses. And that civil traffic offenders should not be jailed. There needs to be some accountability to the rules of the road and the safety of the rest of us who share them. Perhaps, like in Los Angeles if continuing to drive without regard for the fines should trigger the impound of any vehicle that the offender is found in operation of until the fines are paid? Or in Louisiana they actually make you bond out the vehicle? There are options.

Traffic offenses have become the cash cow of Municipalities. The worst debtor's prison is the City of Las Vegas. If you receive a citation at Desert Inn and Maryland Pkwy with 3 offenses, the justice court opens one case. If you go to warrant, it is a \$150 warrant fee to quash. Move that citation to Charleston and Maryland Pkwy, Las Vegas Municipal Court opens 3 cases, one for each offense. Go to warrant, 3 warrant fees of \$185, or \$555 total. It's a wonder that people can't catch up. And many citations go to warrant 4, 5, 6 or more times.

The only bright side to the traffic ticket hell is that it is all about the money. They will let you skip a payment, make a payment late, make a half payment, even do community service in lieu of ending up in warrant or jail. You just have to inquire prior to going to warrant. They don't want these people in jail, that costs money. They want money. Whatever solution this body embraces with regard

to traffic offenses, it must have teeth to assure compliance, keep the offender from jail, and disincentivize the courts from imposing excess fines, fees, or costs.

NEVADA CONSTITUTIONAL RIGHT TO BAIL

While there are arguments on both sides of the issue as to whether bail is a guaranteed right under the United States Constitution, the Nevada Constitution, Section 7 is much more cut and dried:

Bail; exception for capital offenses and certain murders. All persons shall be bailable by sufficient sureties; unless for Capital Offenses or murders punishable by life imprisonment without possibility of parole when the proof is evident or the presumption great.

Thus, it is reasonable to assume that any release solution for criminal cases requires cash/surety bail as an option. And having the option of cash or surety bail only is surely not a constitutional violation. As the federal courts have previously ruled that wealth (or conversely the absence thereof) is not a protected class under the constitution.

THE INEQUITY OF BAIL SCHEDULES

Many have argued that standard bail schedules discriminate against the poor. One of the problems with the argument is that often a defendant will appear to have no financial means for hiring an attorney or posting bond. Yet into the bondsman's office goes the family or friends with a large stack of cash, then on down the street to pay the attorney. Why? Because the defendant probably is a criminal. You cannot rely on appearances. But what isn't fair is when defendants with similar history and identical charges in different courts in the same valley are subjected to wildly different bails. A specific example from last year, Robbery with a Deadly Weapon, one count. Las Vegas Justice Court, \$10,000. North Las Vegas Justice Court, \$40,000. And Henderson Justice Court, \$100,000. Is \$100,000 right? No, but \$10,000 is too low also. Perhaps \$40,000 is closer to right? Regardless, the same crime should have the same standard bail statewide.

THE GOAL OF REDUCING JAIL POPULATION OR INMATE DAYS

Why is it that Clark County Detention Center and the Las Vegas Detention Center generally take close to 24 hours to release defendants when Henderson can release every 6 hours on a schedule? And persons ordered released at least 2 hours prior to the next release window are released at that release time? I've been told that they can't do it because they are too large. But much larger facilities in Los Angeles and San Francisco release in under 4 hours. If it takes an hour to process someone out, it takes an hour. Whether you do it in the first hour or 24 hours later. How about mandated maximum windows for release under state law? In the case of Clark County who had over 61,000 bookings and releases reducing the release time to a couple hours would reduce total inmate days by over 60,000 or approximately 4%. (Based on 2017 Annual Detention Services Report, Clark County Sheriff's Office)

Only 16.33 percent of releases were by bail bond, or slightly more than 10,000 for the entire year. Only 19% of the population in jail were misdemeanors.

Eliminating bail will not reduce our jail populations or solve our problems. Everywhere that tried has failed miserably. Pretrial risk assessment tools that are flawed and proven to discriminate racially have kept more people locked up and let the wrong people go. Crime statistics are

embarrassing. Not just Las Vegas compared to the rest of the state, but as compared across the country.

Two years ago we appeared in front of this committee and at that time stated what was necessary was funding of a through study where bail agents, law enforcement, prosecutors, defense attorneys, judges, and members of the general public studied and reviewed all the options to return in front of this body with recommendations that would have the best opportunities for success, not the I got elected so how many changes should I throw against the wall and see if they stick! Instead you've opted for bills that have been crafted with the assistance of the failed candidate for Clark County District Attorney, a candidate that your electorate rejected by a landslide. Do you really believe this is what the majority of your constituents want? When in a year and a half costs for these programs are out of control, traffic accidents are up, the crime rate is up, it will be you the voters will reject.

The failure of Mr. Langford to obtain the seat as Clark County District Attorney should be enough of a referendum on these bills.

Ladies & Gentlemen, thank you for your time today.