

Encyclopedia of Crime and Punishment

Release on Own Recognizance (ROR)

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Book Title: Encyclopedia of Crime and Punishment

Chapter Title: "Release on Own Recognizance (ROR)"

Pub. Date: 2002

Access Date: December 09, 2014

Publishing Company: SAGE Publications, Inc.

City: Thousand Oaks

Print ISBN: 9780761922582

Online ISBN: 9781412950664

DOI: <http://dx.doi.org/10.4135/9781412950664.n355>

Print pages: 1373-1376

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<http://dx.doi.org/10.4135/9781412950664.n355>

Release on own recognizance (ROR) is a legal procedure allowing defendants to obtain their pretrial release from jail by promising to appear at all required future court dates. In contrast to the traditional money bail system, with ROR, defendants are released on their own recognizance and do not post any financial bond in order to gain their pretrial freedom. ROR is a major element of the bail reform movement that began in the 1960s in response to perceived inequities in the traditional money bail system.

The bail system has been in existence for nearly a thousand years. It was statutorily defined in the [p. 1373 ↓] Statute of Westminster in 1275. The primary purpose of bail laws has been to enable defendants to swiftly gain their pretrial freedom. Defendants are notified by the judge at their initial appearance in court of the monetary amount necessary to obtain their release. The premise is that defendants will appear in court rather than forfeit the posted cash bond. The amount of the bond is generally directly related to the seriousness of the offense.

Early History of Ror and Bail Reform

Because of the basic inequities inherent in the traditional bail system, which discriminates against poor defendants unable to raise the required bond, a bail reform movement was initiated in the early 1960s. The bail reform movement attempted to diminish the economic discrimination of the traditional system by emphasizing the defendant's character and community ties as significant criteria in determining the defendant's chances for pretrial release. Those defendants who satisfied these new criteria could be released on their own recognizance.

In 1961, the Vera Institute of Justice in New York City established the first bail reform project, the Manhattan Bail Project, which emphasized the use of these new nonmonetary release criteria. Staffed by law students from New York University, the project interviewed defendants and determined if they possessed the requisite community ties. Any qualified defendant was then recommended to the appropriate judge, who had the final word in granting an ROR. The bail reform project, it should be noted, was not an attempt to replace the money bail system but, rather, an attempt

to reform and restructure the traditional system to better meet the needs of indigent defendants.

Following the initial success of the Manhattan Bail Project, nearly 200 similar projects began in cities across the country between 1961 and 1965. In 1966, the federal government joined the bail reform movement when Congress passed a law applicable to the federal courts. The law also specified for the first time that release on recognizance was to be the preferred method of pretrial release. The law further stated that, if ROR was not deemed appropriate, the judge should next consider a group of nonfinancial alternatives such as conditional release, third-party release, and property bonds. The law proved to be a catalyst for the further development of bail reform projects and nonfinancial alternatives at the state level. By 1971, thirty-seven states had enacted statutes authorizing the release of defendants on their own recognizance.

Research on the use of RORs and the performance of bail reform projects by Wayne Thomas in 1971 determined that nonfinancial releases (primarily RORs) were granted to 20 percent of the defendants charged with felonies and to 30 percent of defendants charged with misdemeanors. Despite these encouraging figures, Thomas discovered during his national survey that many projects were having problems. Their problems were the result of declining economic resources, delays in interviewing, self-imposed limitations by critical actors, shifts in allegiance to court priorities, and strict interpretation of eligibility criteria.

Increasing Federal Interest

Despite a perceptible decline in enthusiasm for bail reform generally and for ROR specifically, the federal government continued to remain interested. In 1982, Congress enacted the Pretrial Services Act mandating the establishment of pretrial services programs in each federal judicial district. These programs are responsible for collecting, verifying, and reporting to the federal district court the background information on each defendant. Pretrial services officers can also recommend release on recognizance or any alternative conditions.

According to a 1997 national study by Neil Vance and Ronald Stupak, there are 350 county or local bail reform projects in addition to the 91 federal pretrial services programs. Although nearly all of these pretrial programs may recommend RORs or alternative conditions of release, they operate under a wide variety of organizational arrangements with an equally wide variety of operational procedures. Initially, the reform projects were located entirely within the court's governance, but in recent years, they have been shifted to the supervision of the local probation department. A second trend during the 1980s was the involvement of county jail officials in the administration of ROR programs. This was seen as a by-product of the significant overcrowding in many jails.

Ror Criteria

The criteria used by bail reform projects to determine whether a defendant should be considered for release on recognizance have remained fairly constant since the 1960s. The projects investigate four major areas of a defendant's background: (1) criminal record, (2) family [p. 1374 ↓] ties, (3) residential stability (length of time at the current address), and (4) previous appearance record. A representative of the bail reform project will usually interview the defendant shortly after the first court appearance, although it may be several days before the interview can be completed and the information verified. Verification is typically done through telephone calls, but the thoroughness of these investigations varies widely. Time pressures also cause numerous recommendations to be made without sufficient verification of all background information. If bail reform projects take too long to make their ROR recommendations to the court, defendants will choose to pay the cash bond in order to gain an earlier release and not have to spend more time in jail.

Critique of Bail Reform

Critics of the bail reform movement charge that the projects fail to provide the necessary supervision over defendants released on their own recognizance. This failure can result in large numbers of ROR defendants either failing to appear for

required court appearances or being rearrested for a new crime committed during the pretrial period. Defenders of the traditional money bail system or cash bond, primarily bail bondsagents, argue that reform projects lack the motivation and experience to adequately supervise released defendants. Research conducted during the 1970s indicated, however, that the forfeiture (failure to appear) and rearrest rate of ROR defendants was equal to and in many instances below that of defendants released on cash bonds, the majority of whom were under the supervision of bondsagents. National studies by Paul Wice in 1974 and Wayne Thomas in 1976 estimated the forfeiture rates to be between 5 and 10 percent.

After nearly forty years of operation, the bail reform movement appears to have failed to achieve its primary objective—reducing the economic injustices inherent in the traditional bail system. But, by encouraging the release of defendants on their own recognizance, the bail reform projects have been able to increase the number of ROR defendants. According to studies by Barry Mahoney, Wayne Thomas, Mary Toborg, and Paul Wice, the ROR rates have risen to approximately 20 percent of all defendants. Although judges in most jurisdictions have always had the power to release defendants on their own recognizance, having a bail reform project making recommendations and verifying background data has dramatically increased the number of ROR defendants. Judges are also encouraged to release defendants on their own recognizance because of the defendant supervision by bail reform projects. This supervision may require defendants to make regular phone calls as well as visits to a project's office. Projects also mail out additional notices of court appearances to defendants.

One persistent criticism of bail reform projects is that middle-class defendants rather than indigent defendants are disproportionately granted RORs. Because bail reform projects use middle-class standards of employment stability, family coherence, and residential longevity as criteria for release, most indigents are unable to satisfy them. Ironically, middleclass defendants who are likely to possess the financial resources to raise the required cash bond are most likely to meet the community ties standards required for a bail reform project's recommendation to the judge to grant an ROR.

The use of release on recognizance has increased markedly since the creation of bail reform projects in the early 1960s. Despite their minimal impact upon indigent defendants, ROR programs have achieved several important goals. First, they have

symbolic importance as court programs designed to benefit their clientele. Second, they serve as a catalyst for other reforms. Third, they have been able to relieve some of the workload from overburdened judges facing clogged calendars. John Goldkamp and Michael Gottfredson summarize the positive aspects of these programs, stating that “the growth of pretrial services as a new domain of criminal justice appears to have brought better background information on defendants to bail decision process and has created notification procedures to keep non-willful absence from court to a minimum” (1985: 21).

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<http://dx.doi.org/10.4135/9781412950664.n355>

See also

- [Bail and Bond](#)

Further Reading

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