

(Post #23?)

California's Fabulously Progressive New Get Out of Jail Free Card

Did you hear? California is eliminating "bail" — no one awaiting trial will have to pay to get out of jail anymore! After decades of demanding \$50,000, \$100,000, \$500,000, or even one million dollars or more for people to go home while waiting months or years for a jury to decide their fates, Californians have finally realized it's unfair to require such fortunes from average, innocent people and their families... after all, everyone knows we are all innocent until proven guilty, right? So, the Golden State seems to have taken a big progressive step last month when it eliminated not only the comically stratospheric ransoms (got an extra hundred thou laying around? No? Well, how 'bout a measly 10 or 20 k then? I'll wait while you check your wallet...), but ALL bail for unconvicted pretrial prisoners. Hooray! Hoorah! Huzzah! Except...

EXCEPT, this bail ban is actually painfully regressive, not at all progressive, assuming the goal really is to help give everyone a fair shot. It takes maybe two seconds to notice a critical fact: no one is saying **JAILS** are going away. Bail is going away, but you can be 100% sure the jails will stay full. So, what does that mean?

Another few seconds of thought reveals two more things. Number One, although the jails will stay open and full, we also probably won't be building any new cages, so releases must continue at about the same rate as they do now with bail. Therefore, Number Two: when the entire bail scheme disappears, who will stay in jail and who is set free? An answer emerges when you consider the ridiculous ransoms we've gotten used to hearing about — \$25,000; \$50,000; \$200,000; \$1 Million. After decades of insisting that such nutty numbers were necessary, probably no one's gonna admit, "Heyyy, you know all those guys who, up to just last month, we've demanded six-figure bails from? Well, they're all good now! Yep, they can go free; we never really needed all that money. Gotcha! But yeah, sorry if you spent your life savings before, though. Our bad. Um, we are keeping that money, just to be clear. You understand." That kind of honesty might be refreshing, but crooks are crooks, and our crooks simply aren't about to reveal the whole big bag of lies behind their long-term extortion racket.

So, who stays in jail now, then? My guess is, first of all, everyone who would've had a \$100,000 bail or higher under the old rules. Letting them go now would just admit too much about the state's past crimes. Next, you probably aren't getting out at all anymore if you're an "unpopular" sort of prisoner, the type who might bring negative attention to a judge actually trying to be fair and reasonable. Were you accused of domestic violence? Rape? ANYTHING involving a minor? Save your breath; you're not getting out. Accused of

(Post #23?) Continued

murder? Good luck, boyo. Did you drive drunk? Hope no one died, cuz if they did, you're stuck too, long before any jury finds you guilty. Basically, with "bail," almost everyone had at least a theoretical chance to get out and fight for themselves, but no more. Now, entire categories of accused will be helpless — no bail, no release, no hope.

It's clear this abolition of bail is a huge step in the wrong direction, yet the "bail" system in California, like most states, was completely broken and did require fixing. I put the quotation marks around "bail" for a reason. It's been a ransom, an extortion, no doubt. Fifty-thousand dollars? That was practically a minimum for a felony bail in California, and who the hell has 50 grand on hand? Ah, but that's where "bail bonds" come in, you say? Well, yes. But maybe bail bonds are a big part of the problem. So you'll "only" pay 10%, but that money is gone — POOF!, all at once, up in smoke. If it were the full bond, you'd get it back after trial. Who has \$5,000 to give away? Because that's what you'd need if you were arrested in California today, unless you could come up with the full \$50,000 and part with it for somewhere between 2 months and 2 years... and again, that's basically a minimum for felonies. "Bail" is often \$100,000; \$500,000; One Million. Got 10% of those numbers to blow? Not likely.

No, California's existing "bail" system was shameful, and the idea of "bail bonds" was a major reason why. It absolutely needed reform, but meaningful reform would have looked more like this: After arrest, bail is set, but no professional bond services are allowed. Since our Constitution requires bail to not be excessive, it should either be based on a reasonable and realistic calculation of ability to pay, or set arbitrarily at a realistic dollar amount. It will be 100% refunded, of course, but since arrestees have to come up with all of it, bails should return to normal human proportions — \$500 here, \$1,000 there... maybe 2-5 thousand in some cases, but certainly nothing over \$10,000 in any but the most exceptional cases. A \$100,000 bail might be unheard of, since for most people, if nothing short of losing \$100,000 cash will discourage skipping court appearances, then probably nothing will. An appropriate bail will be something a defendant can realistically come up with, but which he also can't afford to throw away.

Once a human-scale bail system is in place, then we can incorporate the genuinely progressive provisions of the new law, like hearings to determine whether any bail money should be required at all, with a default expectation that very many people should be released before trial without paying a penny. Combined with the old law's assumption that virtually everyone can and should be released so long as they have adequate incentive to keep returning to court, maybe some jails will have to close after all, which seems right, since — of course — all Americans ARE innocent until proven guilty... aren't we? What's your opinion on all this?