

BAIL REFORM

A Selective, Annotated Bibliography

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ACQUISITION

I. ON PROBLEMS OF THE BAIL SYSTEM

Item

- 1 Clark, Ramsey.
Crime In America: Observations on its Nature. Causes, Prevention and Control. New York, Simon and Schuster, 1970. 346 p.

S364.973 C594

Chapter 18 is devoted to a general critique of our bail system. Condemns system for unconstitutionally discriminating against the poor and exposing untried defendants to conditions of our prisons that have driven some to suicide. Argues against preventive detention and advocates greater use of conditional supervised release.

- 2 Egan, J. B.
"Bail in Criminal Law". Criminal Law Review, October 1959. 705.

LAW LIB

Describes and discusses the mechanics and problems of the English bail system.

- 3 Foote, Caleb.
"The Coming Constitutional Crisis in Bail". University of Pennsylvania Law Review, May 1965 and June 1965. vol. 113, 959-999 and 1125-1185.

LAW LIB

Part I. Reviews the origins of the American bail system in English Common Law and its constitutional history. Analyzes the Eighth Amendment which is found to imply a right to bail protecting an accused from preventive detention.
Part II. Argues that "historically derived discrimination" against the poor runs counter to "a growing thrust towards equal protection" leading to "the prediction that major constitutional problems in the relationship of indigents to the bail system are in the offing". Using a hypothetical criminal case, problems of defense strategy and constitutional issues of due process and equal protection are reviewed. Preventive detention and the problem of prediction are also discussed.

Item

4

-----., ed.

Studies on Bail. Philadelphia, University of Pennsylvania Law School, Institute of Legal Research, 1966. 288 p.

LAW LIB

Book contains analyses of the bail systems of Philadelphia and New York City, and other papers presented to an international symposium dealing with bail.

5

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"A symposium: Conditional Release Pending Trial: Introduction; The Comparative Study of Conditional Release". University of Pennsylvania Law Review, January 1960. vol. 108, 290-365.

LAW LIB

Discusses the differing assumptions and legal principles underlying the American and certain foreign bail systems. Finds that "in theory the American system of bail stands as an extreme example of the protection of human rights in its opportunity for conditional release pending trial". In practice he finds we are more like other countries which do not procedurally presume the innocence of the accused. Sections which follow describe the bail systems of Scotland, Japan, Norway, and France.

6

Freed, D. J. and P. Wald.

Bail in the United States: 1964. Washington, National Conference on Bail and Criminal Justice, 1964. 116 p.

LAW LIB

Prepared as a working paper for the National Conference on Bail and Criminal Justice. Outlines case against monetary bail and identifies alternative strategies for reform.

7

George, James A.

"The Institution of Bail as Related to Indigent Defendants". Louisiana Law Review, April 1961. vol. 21, 627-638.

LAW LIB

Item

Advocates greater use of non-monetary deterrents to flight that use a defendant's bonds to his community to ensure his presence in court. Prefers bail decision to be made on a case basis rather than the blanket application of recognition as a solution to the bail problem of the indigent defendant.

- 8 Goldfarb, Ronald L.
Ransom: A Critique of the American Bail System. New York, Harper & Row, 1965. 264 p.

S343.0973 G618

Foreword by Arthur J. Goldberg. Comprehensive treatment of the problems of the American bail system. Includes discussion of alternatives to the present system, pretrial release systems employed by other countries, and the author's proposal for bail reform which calls for a two step pretrial procedure. The first would provide some form of non-monetary release in all cases where release is deemed appropriate. The second step would provide a proceeding "in the nature of a civil commitment proceeding" in the minority of cases where the safety of society precludes a particular defendant's release.

- 9 Jenkins, Ray.
"The American Bail System: Cruel Punishment for the Poor". Poverty Law Report, March 1973. vol. 1, 3.

LEGIS REF

Periodical is a publication of the Southern Poverty Law Center headed by Georgia legislator Julian Bond. Article presents case against the monetary bail system with examples from current and historical case law. Briefly discusses prospects for court-mandated bail reform.

- 10 Kennedy, Robert F.
"Criminal Justice". William and Mary Law Review, 1964. vol. 5, 167-173.

LAW LIB

Identifies bail as one of the major problem areas in the criminal justice system. Citing the success of the Manhattan Bail Project he asserts that "the philosophy of financial bail is plainly outmoded".

Item

- 11 Longsdorf, George F.
"Is Bail a Rich Man's Privilege?". Federal Rules Decisions, 1948.
vol. 7, 309-312.

LAW LIB

Explains the origins of discrimination against the poor in our bail system in the transplantation of bail as it evolved under English Common Law to our more mobile society. Monetary bail subsequently developed in America as a product of legislation. The elimination of inequities must therefore be accomplished ultimately by legislators rather than judges.

- 12 McClain, Thomas B., et al.
New Issues in Criminal Investigation Procedures. Skokie, Illinois,
National Textbook Corporation, 1967. 211 p. (includes bibliography)

S343.097303 qN53694

Debater's guide to current topics in criminal justice procedure law including bail reform. Outline of case for bail reform keyed to passages from the literature supporting the reform position.

- 13 Mostyn, F. E.
"Bail and the Presumption of Innocence; England and American: A Comparison". Law Society Gazette, December 1964. vol. 61, 799-803.

LAW LIB

Although the bail bond business is illegal in England, article reveals that inequities similar to those inherent in our system persist there. Reports admiringly on the Manhattan Bail Project and the American bail reform movement. Makes statistical comparison which indicates that the American system's problems are the more serious.

- 14 National Conference on Bail and Criminal Justice.
Proceedings of May 27-29, 1964 and Interim Report, May 1964-April 1965.
Washington, 1965.

LAW LIB

Conference co-sponsored by the U.S. Justice Department and the Vera Institute explores all aspects of bail and bail reform.

Item

- 15 Paulsen, Monrad G.
"Pre-trial Release in the United States". Columbia Law Review,
January 1966. vol. 66, 109-125.
LAW LIB
Critical overview of bail system supports argument for the constitutional right to bail and elimination of monetary forms of bail which discriminate against the poor. Cites cases which reflect problems of the system and which advocate reform.
- 16 Rankin, Anne.
"The Effect of Pretrial Detention". New York University Law Review,
June 1964. vol. 39, 641-655.
LAW LIB
Statistical study explores the relationship between pretrial detention and unfavorable case disposition. Finds strong case for a casual relationship between detention and disposition. Other factors are found not to account for the observed relationship.
- 17 Ryan, John V.
"The Last Days of Bail". Journal of Criminal Law, Criminology and Police Science, December 1967. vol. 58, 542-550.
LAW LIB
General review of the case for bail reform. Discusses the inequities and abuses of the monetary bail system which the author believes unconstitutional on criteria of equal protection. Favors non-monetary deterrents to flight and greater use, when appropriate, of summons or citation as an alternative to arrest which allow a defendant to remain free pending trial and obviate the need for bail.
- 18 Silverstein, Lee.
"Bail in the State Courts - A Field Study and Report". Minnesota Law Review, March 1966. vol. 50, 621.
LAW LIB

Item

Argues that non-uniformity of bail practices and procedures among and within states may in certain instances be sufficiently great "to raise serious questions under the equal protection clause of the fourteenth amendment, the excessive bail provisions of the eighth amendment and possibly various state constitutional provisions". Appendix describes the interstate variance of procedures.

- 19 U.S. President's Commission on Law Enforcement and Administration of Justice.

The Challenge of Crime in a Free Society. Washington, Government Printing Office, 1967. 131-133 p.

S364.973 qU65 1967

Calls for minimizing reliance on monetary bail by revising state bail laws along the lines of the Federal Bail Reform Act of 1966.

- 20 U.S. President's Commission on Law Enforcement and Administration of Justice - Task Force on the Administration of Justice.

The Courts: Task Force Report. Washington, Government Printing Office, 1967. 37-39 p.

S347.9973 qU652 1967

Brief summary of the problems of the bail system remaining under the Federal Bail Reform Act of 1966. Discusses continuing reform inspired by the Manhattan Bail Project and by the desire to eliminate pretrial recidivism through preventive detention.

- 21 Wald, Patricia.

"Pretrial Detention and Ultimate Freedom: A Statistical Study: Foreword". New York University Law Review, June 1964. vol. 39, 631-640.

LAW LIB

Explains why defendants who cannot obtain release on bail are more likely to be convicted and receive harsher sentences than those released on bail.

II. THE ROLE OF BONDSMEN IN THE BAIL SYSTEM

Item

- 22 "Bailbondsmen and the Fugitive Accused - The Need for Formal Removal Procedures". Yale Law Journal, May 1964. vol. 73, 1098-1111.

LAW LIB

A critical examination of the practices of bailbondsmen who are not subject, as the police are, to extradition laws controlling the removal of recaptured fugitive bailees across state lines. Proposes adoption of uniform state laws governing the activities of bondsmen.

- 23 Breslin, Jimmy.
"Best Bet for Bail: A Good Crook". Life, March 29, 1963. vol. 54, 15+.

051 FL72

The bail bond business from the bondsman's point of view with touches of humor. Reveals bondsmen's preference for professional criminals who are considered among the best bail risks.

- 24 Funk, Neil Wilson.
"The Bondsman Problem". Kentucky State Bar Journal, September 1954. vol. 18, 14+.

LAW LIB

Condemns practice of fee splitting between some bondsmen and some "cheap half-baked lawyers....who creep like eager vultures into the shabby nests of these controllers of attorneys of the criminal practice".

- 25 U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights and the Subcommittee on Improvements in Judicial Machinery.
Fugitive Bailees: Hearings, 89th Cong. 2d Sess. on S.2855, a Proposal to Modify Existing Procedures Governing the Interstate Rendition of Fugitive Bailees. May 18, 1966. Washington, Government Printing Office, 1966. 121 p.

S343.097303 U5143 1966

Testimony on federal legislation (not enacted) to limit the powers and methods used by bondsmen to pursue fugitive bail jumpers across state lines and return them to the trial jurisdiction.

III. THE JUDICIAL ROLE IN THE BAIL SYSTEM

Item

- 26 Cameron, Jim.
"Standards for Determining Excessive Bail". University of Kansas City Law Review, April/June 1952. vol. 20, 171-175.

LAW LIB

Discusses a U.S. Supreme Court ruling to reduce bail in a 1951 Smith Act case. Points to the need for statutory limits to the amount of bail that can be exacted for given offenses.

- 27 Eggeman, R. F.
"Excessive Bail". The Notre Dame Lawyer, April/May 1930. vol. 5, 419.

LAW LIB

Reports on a Federal Appellate Court decision reducing bail in a prohibition case arguing that an accused, presumed innocent, should be free "where reasonably possible" to assist in the preparation of his defense.

- 28 "Judicial Discretion in Granting Bail". St. John's Law Review, December 1952. vol. 27, 56-78.

LAW LIB

An analysis of the statutory and constitutional limits to judicial discretion. Contains citations to leading court decisions and state constitutional and statutory restraints that serve to define the limits of judge-made criteria.

- 29 Taylor, Robert G.
"Discretion of Court in Fixing Bail in Non-Capital Prosecutions". University of Florida Law Review, Spring 1952. vol. 5, 29-34.

LAW LIB

Uses a 1947 New York case to argue that to protect an accused from excessive bail, his or her ability to pay should be the principal factor in limiting judicial discretion.

- 30 Thomas, William K.
"Bail in Criminal Cases". Western Reserve Law Review, June 1964. vol. 15, 435-460.

LAW LIB

Item

Judge in the preliminary hearings of the Dr. Samuel Shepard case discusses his decision to grant bail in a capital case as was permitted under Ohio law as well as other significant bail decisions. Results of his study of bail in criminal cases led him to support bail reform along the lines of the Manhattan Bail Project which tested the viability of greater use of release on recognizance for defendants with non-monetary ties to the community sufficient to assure their appearance in court.

IV. BAIL REFORM AND PREVENTIVE DETENTION

Item

- 31 Altman, Janet R. and Richard O. Cunningham.
"Preventive Detention". George Washington Law Review, October 1967.
vol. 36, 178-189.

LAW LIB

Presents the arguments for and against preventive detention. Authors propose a system of detention which "allows confinement of the potentially dangerous accused while providing safeguards to minimize the risk of unnecessary detention and to incorporate the guarantees of due process...the problems encountered will be practical not constitutional".

- 32 Burks, Edward C.
"State to Weigh Preventive Detention". New York Times, February 23, 1969. 62:2.

GEN REF

A report on the then proposed New York State CPL bail provisions which included preventive detention. Cites objections of the Vera Institute which held that there were inadequate safeguards to protect against abuses of detention and no reliable methods of predicting the behavior of an accused released pending trial.

- 33 "The Case of the Dangerous Defendant: A Study and Proposal". Report of the Judicial Conference of the State of New York, 1969. 14th Annual Report, 124-205. (including bibliography)

LEGIS REF

An in-depth report prepared by the legal staff of the Judicial Conference on the "unsolved problem of pretrial release and preventive detention". Reviews the history and origins of the American bail system, surveys several foreign bail systems and discusses the practical and constitutional problems of preventive detention. Proposals include increased availability of pretrial freedom to low risk defendants, the availability of psychiatric records for use in making pretrial release decisions, and preventive detention which is found necessary and constitutional. Appendix reports on "A Field Survey of New York Practice and Opinion".

Item

- 34 "Easy Bail for Hardened Criminals". Literary Digest, February 13, 1926. vol. 88, 10.

051 qL776

Reflects the concern of fifty years ago for the problem of bail crime.

- 35 Hess, Frederick D.
"Pretrial Detention and the 1970 District of Columbia Crime Act - The Next Step in Bail Reform". Brooklyn Law Review, Winter 1971. vol. 37, 277-322.

LAW LIB

Criticizes the Federal Bail Reform Act and the bail reform movement for failing to deal with the problem of the dangerous defendant. Argues that widespread judicial use of "sub rosa" preventive detention should be acknowledged and limited through statutory preventive detention like that provided for by the District of Columbia Crime Act. Author's analysis of state pretrial release statutes enacted since passage of the Federal Bail Reform Act of 1966 leads him to conclude that while the states have shown an inclination to increase the legal means of pretrial detention with expanded, albeit tentative, use of recognizance, they have not used the Act as a model for reform.

- 36 Miller, Warren L.
"The Bail Reform Act of 1966: Need for Reform in 1969". Catholic University of America Law Review, Fall 1969. vol. 19, 24-49.

LAW LIB

Examines the Act's "effectiveness in light of its implications and administration in the District of Columbia" where the Federal District Court has complete felony jurisdiction. Finds that crime committed by defendants free prior to trial is a significant problem, and that certain conditions of supervised release are unenforceable. Argues for preventive detention and more rigorous supervision of released defendants.

- 37 Mitchell, John N.
"Bail Reform and the Constitutionality of Preventive Detention". Virginia Law Review, November 1969. vol. 55, 1223-1242.

LAW LIB

Item

Argues that there is no absolute right to bail implied in the Eighth Amendment, that the presumption of innocence is "simply a rule of evidence" and that pretrial detention does not violate constitutional due process clauses. Then outlines his preventive detention proposal.

- 38 "Preventive Detention Before Trial". Harvard Law Review, May 1966. vol. 79, 1489-1510.

LAW LIB

Article surveys fifty years of dissatisfaction with the bail system, citing criticism of monetary bail both from defendant's and prosecution's points of view. Believes that "sub rosa" preventive detention accomplished through setting excessive bail is objectionable and should be legally eliminated. Statutory preventive detention, however, should not be implemented until predictive methods are perfected and alternative procedures to deal with bail jumping and bail crime are proven ineffective.

- 39 "Preventive Detention: An Empirical Analysis". Harvard Civil Rights - Civil Liberties Law Review, March 1971. vol. 6, 291-396.

LAW LIB

Foreword by Senator Sam Ervin who condemns the preventive detention provision of the District of Columbia Court Reform and Criminal Procedure Act of 1970 as "an illustration of what happens when politics, public fear and creative hysteria join together to find a simple solution to a complex problem". He finds that empirical studies conducted by the U.S. Bureau of Standards and by Harvard Law school do not support the assumptions underlying preventive detention. The text of the Harvard study follows, reporting a low incidence of bail crime and weak correlation between the predictive factors of recidivism prescribed in the Act and the post release recidivism of the control group of defendants tested. The study's authors suggest several "less drastic alternatives" to detention: expedited trials, restrictive conditions of release, forfeiture of the right to bail for pretrial crime and stricter penalties for such offenses.

- 40 Rose, G.
"Trends in the Use of Prediction". Howard Journal of Penology and Crime Prevention, 1966. vol. 12, 26-33.

364 H85

Item

Historical survey and critical discussion of various approaches to the prediction of criminal behavior which is identified as a key problem in proposals for preventive detention and wider use of release on recognizance.

- 41 U.S. Congress. House. Committee on the District of Columbia. Subcommittee No. 1.

Anti-Crime Proposals. Hearings, 91st Cong. 1st Sess. on H.R. 13689, H.R. 12854, and other related bills. September 22; October 1, 7, 14, and November 17, 1969. Washington, Government Printing Office, 1969. 136 p.

S343.09753 U49936 1969

Testimony and documents supporting legislation (subsequently enacted) providing for the reorganization of the District of Columbia courts and for several anti-crime measures including preventive detention.

- 42 U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights.

Amendments to the Bail Reform Act of 1966. Hearings, 91st Cong. 1st Sess. January 21, 22, 23, 28, 29, 30 and February 4, 1969. Washington, Government Printing Office, 1969. 830 p. (includes bibliography)

S343.1 U5143am 1969

Exploratory hearings to conduct a comprehensive study of the Federal Bail Act of 1966 after 2½ years of operation. Testimony for and against preventive detention. Reprints of significant court cases and articles on bail reform, bail crime and preventive detention are included.

- 43 U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights.

Preventive Detention. Hearings, 91st Cong. 2d Sess. May 20, 21, 22, 27 and June 9, 11, 17, 18, 19, 1970. Washington, Government Printing Office, 1970. 1356 p. (includes bibliography)

S343.097303 U5143p 1970

Testimony for and against preventive detention. Includes texts of numerous bills, articles and speeches on the subject.

Item

- 44 U.S. National Bureau of Standards.
Compilation and Use of Criminal Court Data in Relation to Pretrial
Release of Defendants: Pilot Study. Washington, Government Printing
Office, 1970. 236 p. + bibliography. (Technical Note 535)

389.6 qU66t

Study designed to explore the extent and seriousness of crime committed by persons granted pretrial release and to define an approach to developing a method of predicting such crime for use in release decision-making. Results have been cited by advocates of preventive detention.

15

V. EXPERIMENTAL BAIL REFORM PROJECTS

Item

- 45 Ares, Charles and Herbert Sturz.
"Bail and the Indigent Accused". Crime and Delinquency, January
1962. vol. 8, 12-20.

S364.6 N111

Describes the mechanics of the Manhattan Bail Project.

- 46 Ares, Charles E., et al.
"The Manhattan Bail Project: An Interim Report on the Use of Pre-
trial Parole". New York University Law Review, January 1963.
vol. 38, 67-95.

LAW LIB

Detailed report on the Manhattan Bail Project with statistical
analysis and samples of the interview forms used to determine
recommendations for release on recognizance.

- 47 McCarthy, David J., Jr.
"Practical Results of Bail Reform". Federal Probation, September
1965. vol. 29, 10-14.

S364.6305 qF293

Discusses optimistic results of the District of Columbia Bail
Project and the role of the Probation Department in a reformed
bail system using personal information to determine conditions
of release.

- 48 National Conference on Bail and Criminal Justice.
Bail and Summons: 1965: Proceedings of the Institute on the Operation
of Pretrial Release Projects. New York. October 14, 15, 1965 and
Proceedings of the Conference on Bail and Remands in Custody. London.
November 27, 1965. Washington, 1966. 262 p.

S343.1 B153 1965

Introduction to the bail reform movement and its achievements
with transcripts of expert panels discussing various aspects and
problems of bail reform and experimental pretrial release
projects.

Item

- 49 Sturz, Herbert J.
"The Manhattan Bail Project and its Aftermath". American Journal of
Correction, December 1965. vol. 27, 14-17.

S365.05 qP959

Executive director of the Vera Institute assesses the impact of the Manhattan Bail Project on bail systems around the country. Variations on procedures developed by Vera are described.

- 50 Wisconsin. Legislative Reference Bureau.
Pretrial Release Practices. Madison, 1967. 33 p. + bibliography.

S343.1 qW7985

Comprehensive brief for bail reform in Wisconsin. Presents statistical summary of many bail projects and legislative activities in various states.

VI. ON BAIL REFORM PROPOSALS AND LEGISLATION

Item

- 51 American Bar Association. Project on Minimum Standards for Criminal Justice.

Standards Relating to Pretrial Release. Chicago, 1968. 95 p.

LAW LIB

Presents specific recommendations for comprehensive bail reform. Emphasis is on minimizing pretrial custody through greater use of citations, summons, and release on recognizance rather than monetary bail which is retained as a last resort. Preventive detention is proposed, subject to strict limitations on judicial discretion.

- 52 "Bail or Jail". The Record of the Association of the Bar of the City of New York, 1964. vol. 19, 11-29.

LAW LIB

Critical review of the bail system in New York City. Recommendations for immediate reform emphasize increased use of the Office of Probation in connection with conditional release. Elimination of the monetary bail system is suggested as the long range goal of reform.

- 53 "Bail: The Need For Reconsideration". Northwestern University Law Review, November/December 1964. vol. 59, 678-695.

LAW LIB

Paper presented to a symposium on Constitutional problems in the administration of criminal law concentrating on the Illinois Code of Criminal Procedure. While acknowledging progress toward protection of the rights of the indigent, identifies bail jumping and bail crime as unsolved problems of the bail reform movement.

- 54 "The Bail Reform Act of 1966". Iowa Law Review, August 1967. vol. 53, 170-194.

LAW LIB

Provides detailed legal analysis of the Federal bail law. Predicts it foreshadows continued reform to eliminate all monetary forms of bail.

Item

- 55 "Bail Reform in the State and Federal Systems". Vanderbilt Law Review, May 1967. vol. 20, 948-962.

LAW LIB

Discussion of the background of the Bail Reform Act and the problems and potentials for its use as a model for the reform of state bail systems.

- 56 Bing, S. and S. Stephen Rosenfeld.
"The Quality of Justice: In the Lower Criminal Courts of Metropolitan Boston". Criminal Law Bulletin, June 1971. vol. 7, 393-443.

LAW LIB

Article deals with the deficiencies of various aspects of the criminal court system of Boston including the bail system as it operates under the Massachusetts Bail Reform Act of 1968.

- 57 Bogomolny, Robert G. and Michael R. Sonnenreich.
"The Bail Reform Act of 1966: Administrative Tail Wagging and Other Legal Problems". Arizona Law Review, Summer 1969. vol. 11, 201-228.

LAW LIB

Authors review rationale and substance of the Federal Bail Reform Act of 1966 and find that "contemplated reform has not been forthcoming". Cites various conflicts between idealistic and pragmatic considerations and fundamental procedural problems in the Act itself which require legislative rectification.

- 58 Boyle, John S.
"Bail Under the Judicial Article". DePaul Law Review, Winter 1968. vol. 17, 267-277.

LAW LIB

A description of the features and procedures of Illinois' reformed bail law which has practically eliminated the bail bond business through provisions which permit an accused to post ten percent of the amount set for his bail.

Item

- 59 Committee on Youth and Correction. Community Service Society of New York.
Youth and Correction Legislation in New York State - 1971. New York,
1971. 95 p.

SR364.9747 qY83

Detailed analysis of New York State legislation affecting youth including bills pertaining to speedy trials, release on recognizance, and alternatives to cash bail. Gives support, opposition, comments and disposition.

- 60 Congressional Quarterly Service.
Crime and Justice in America. Washington, 1967. 46-49

S364.973 qC749

Concise summary of the Federal Bail Reform Act of 1966 (P.L. 89-465) including basic provisions, historical background, and the sequence and substance of legislative and floor action leading to passage. Also contains discussion of the District of Columbia Bail Agency Act implementing reform of the District of Columbia's bail system.

- 61 Ervin, Hon. Sam J., Jr.
"Legislative Role In Bail Reform". George Washington Law Review,
March 1967. vol. 35, 429-454.

LAW LIB

A history of the reform movement resulting in the Federal Bail Reform Act of 1966 with background of the problem.

- 62 Fabricant, Neil.
"Bail as a Preferred Freedom and the Failures of New York's Revision".
Buffalo Law Review, 1968-1969. vol. 18, 303-319.

LAW LIB

Critical analysis of New York State's bail law as it was proposed. Condemns proposal in terms of constitutional criteria of equal protection and procedural and substantive due process. Most "fundamental objection" is to "its basic assumption that the right to bail is wholly discretionary". Favors change along lines of the Federal Bail Reform Act of 1966 which minimizes use of monetary bail.

Item

63 Farrel, William E.

'New Criminal Code First in 88 Years Drafted For State'. New York Times, February 2, 1969. 1:4.

GEN REF

Article summarizes features of proposed Criminal Procedure Law as proposed. Reports ACLU critical of bail reform proposals since they "preserve intact the money-based system of pretrial detention".

64 Ludwig, Frederick J.

The New Criminal Procedure Law. New York, The Equal Justice Institute, 1971. 26-27

LAW LIB

Concise review of pretrial release procedures provided by the present New York law revised in 1970.

65 Murphy, John J.

"Revision of State Bail Laws". Ohio State Law Journal, Summer 1971. vol. 32, 451-486.

LAW LIB

Summary of action taken by state legislatures in lieu of the Federal Bail Reform Act of 1966 to control the abusive activities of bondsmen and to expand recognizance. Appendices give statutory authorization for bondsmen's arrest power and state legislative authorization of release on recognizance.

66 New York (State). Temporary Commission on Revision of the Penal Law and Criminal Code.

Proposed New York Criminal Procedure Law. Brooklyn, Edward Thompson Company, 1967. 424-444.

LEGIS REF

Staff comments explaining each section of the proposed law reveal the philosophy underlying bail reform in New York State. The Commission's preventive detention proposal discussed here was later deleted from the law passed in 1970.

Item

- 67 New York (State). Temporary Commission on the State Court System.
. . . And Justice For All. Albany, 1973. 83 p. (Part II)

LEGIS REF

Chapter 6 recommends abolishing the present system of monetary bail in New York State which is found inequitable, vulnerable to corruption, and probably unconstitutional. Proposes a system designed only to consider a defendant's appearance in court and which supports the presumption of his or her eligibility for release on recognizance. Recommends conditional supervised release or detention prescribed by statutory criteria as alternatives to recognizance for use in appropriate cases.

- 68 Pitler, Robert M.
New York Criminal Practice Under the CPL. New York, Practicing Law Institute, 1972. 175-217

LAW LIB

Section of this textbook deals with provisions, procedures, and underlying legal theory of the New York Criminal Procedure Law relating to bail and recognizance. Suggests that preventive detention, though deleted from the legislation prior to enactment, is recognized by New York case law in situations where a defendant at large would present a danger to witnesses scheduled to testify against him.

- 69 "Proceedings of the Conference on Bail and Indigency". University of Illinois Law Forum, Spring 1965. vol. 1965, 1-79.

LAW LIB

Focus of the conference is on the inequities inherent in the monetary bail system. Alternatives discussed include the ten percent bail deposit plan used in Illinois and more extensive use of recognizance tested in various cities. Remarks on reform by experts on bail and criminal law.

- 70 Treuhaft, R. E.
"Abolition of Bail in Misdemeanor Cases". Lawyers Guild Review, Summer 1959. vol. 19, 55-57.

LAW LIB

Item

Proposes the abolition of monetary bail in misdemeanor cases. Argues that for such offenses the pretrial period can exceed the maximum sentence, inducing a defendant who cannot afford bail to plead guilty in order to shorten his overall stay behind bars.

- 71 U.S. Congress. House. Committee on the Judiciary.
Federal Bail Reform. Hearings, 89th Cong. 2d Sess. on H.R. 3576 and related bills, March 9-16, 1966. Washington, Government Printing Office, 1966. 90 p.

S343.1 U4994f 1966

Testimony overwhelming in support of bail reform. Legislation subsequently became the Federal Bail Reform Act of 1966.

- 72 U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights.
Federal Bail Procedures. Hearings, 89th Cong., on S.1357 and other related bills, June 15, 16 and 17, 1965. Washington, Government Printing Office, 1965. 322 p.

S343.1 U5143 1965

Testimony pro and con on Federal Bail Reform legislation enacted in 1966.

- 73 U.S. Congress. Senate. Committee on Judiciary. Subcommittee on Constitutional Rights and the Subcommittee on Improvements in Judicial Machinery.
Constitutional Rights and Federal Bail Procedures. Summary Report of Hearings and Investigations. 88 Cong., 2d Sess. pursuant to S. Res. 265. Washington, Government Printing Office, 1965. 18 p.

S343.1 U5143co 1965

Concise summary of the cases for and against specific aspects of legislation that became the Federal Bail Reform Act of 1966.

- 74 Wald, Patricia and Daniel J. Freed.
"Bail Reform Act of 1966: A practitioner's Primer". American Bar Association Journal, October 1966. vol. 52, 940-945.

LAW LIB

Item

An introduction to the Federal Bail Reform Act. Outlines its liberalized provisions and focuses on defense counsel's role in securing release under its procedures.

VII. BOOKS ON ORDER

Item

- 75 Ashman, Allan and Tina Asperk, eds.
Selected Readings on Prosecution, Defense and Bail. Chicago, American
Judicature Society, 1971. 119 p.

Readings on the functions of the prosecution, defense and bail
with recommendations for their improvement.

May 1973

END