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Bail in Wyoming under the Wyoming Rule of Criminal Procedure

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BAIL IN WYOMING UNDER THE WYOMING RULE OF CRIMINAL PROCEDURE

INTRODUCTION

In the United States persons accused of crimes are presumed innocent and are generally entitled to their freedom until the charges against them are resolved. Release from police custody after arrest, however, is not automatic, it is governed by the operation of laws and judicial practices which comprise our system of pretrial release. Bail is the procedure for releasing arrested persons on financial or other conditions to ensure their return for trial. Inceasingly, in recent years this formula has been criticized because its reliance on monetary terms causes the pretrial incarceration of those defendants who are too poor to pay the bondsmen and obtain release.[1] Money bail is a prime example of a traditional practice in the criminal law that has not proven adequate to meet the needs of an evolving concept of criminal justice.[2]

The Wyoming Supreme Court took a giant step in the direction of meeting these needs when they adopted the Wyoming Rules of Criminal Procedure. Rule 8 of the Wyoming Rules, the bail rule in Wyoming,[3] illustrates this point. This new bail rule, which went into effect on February 11, 1969, provides the tools necessary for equal protection of all accused regardless of their financial status. Since this neologistic rule deviates substantially from the old bail rule in Wyoming and the traditional bail procedure of the United States, it has not yet been fully accepted or strictly adhered to by the Wyoming judiciary.[4]

1. *See Hearings on Amendments to the Bail Reform Act of 1966 Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess. 427 (1969).
2. *See National Conference on Bail and Criminal Justice, Proceedings and Interim Report* (1965).
3. WYO. R. CRIM. P. 8, *see* Appendix A, *infra*, 375-377.
4. An example of how the new Rule is disregarded is the recent unrecorded case in Albany County, Wyoming, involving a man, wanted in California, who was picked up in Laramie. The California authorities were notified and they suggested the accused be placed on $18,500 bail. The presiding justice of the peace, in order to insure that the accused would not be released admitted him to bail in the amount of $25,000.

After a background discussion of the evolution of bail in the United States and the old bail rule in Wyoming, this comment will focus upon three issues. The first involves the question of what the new bail rule in Wyoming entails. This is done by looking at the sources of the rule, the cases which have interpreted the law of the source jurisdiction, and the intent of the court in adopting the rule. The second involves the question of who has jurisdiction to set bail and the right to appeal this decision. The third issue discussed is, who has the responsibility for enforcing the new bail rule. In order to limit the scope of this comment only bail during pre-trial detention of non-capital cases will be discussed.

GENERAL BACKGROUND

The bail system originated in England, not out of concern for the plight of the defendant, but rather, because of the loosely guarded prisons and corrupt sheriffs of that period.[5] Personal responsibility was emphasized: the accused and his sureties, who were friends and relatives, entered into a contract with the Crown whereby if the accused failed to appear as requested, he would forfeit what he and his sureties had promised.[6] This system of personal responsibility has existed in England for centuries.

The bail system which was received from England is certainly not the one in existence in the United States today. During the early days of the United States the system of personal responsibility was not workable due to the fact that the country was a nation of colonies with rapidly expanding frontiers, with citizens who had no roots, no families, and few friends who would become sureties for an accused. The friend or relative surety was, therefore, replaced by the professional bondsman, who, for a cash premium, would agree to forfeit money if the accused failed to appear. Late in the nineteenth century, when this nation became more stable and well settled, England's system of personal responsibility would have been very workable. The United States, however,

5. *See supra* note 2, at 19-20.
6. McCree, *Keynote Address: Bail and the Indigent Defendant*, U. ILL. L. F. 1, 2 (1965).

continued with the commercial bail system since it was lucrative for the bondsman and convenient for the court.[7] Today, the commercial bondsman is still utilized in the majority of bail cases. This system puts a premium on the financial status of the defendant and in many cases causes an indigent defendant to be incarcerated for a long period before trial, while a person with a like charge who can afford the commercial bondsman is released.[8] This could be analagous to the old time debtor prisons where persons were jailed according to their ability to pay.

Prior to the adoption of the Wyoming Rules of Criminal Procedure bail was administered under the Wyoming Constitution and statutes.[9] The essential language in the constitution, as it pertains to the limited area of this comment is "All persons *shall* be bailable . . . , except for capital offenses . . ." [emphasis added].

The statutes provided for a monetary bail system[10] and gave jurisdiction to admit an accused to bail to any judge of the supreme court or of the district court within the district or any justice of the peace within the county where the crime was committed.[11] Other provisions in the statute outside the scope of this discussion were affected by the new rules.[12]

There are few reported cases in Wyoming dealing with pre-trial detention in non-capital cases,[13] although there have been several in the area of capital offenses[14] and the right to

7. FREED & WALD, BAIL IN THE UNITED STATES, at 22-38 (1964).
8. *Id.*
9. "All persons shall be bailable by sufficient surities, except for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, no excessive fines imposed, nor shall cruel or unusual punishment be inflicted." WYO. CONST. art. I, § 14. WYO. STAT. §§ 7-199 to 7-219 (1957) (repealed 1969).
10. WYO. STAT. § 7-199 (1957) (repealed 1969).
11. WYO. STAT. § 7-204 (1957) (repealed 1969).
12. *See* WYO. R. CRIM. P. 56 which has a complete list of all statutes superseded by the new rules. The old bail statutes which were superseded are WYO. STAT. § 7-203 (1957) (repealed 1969); WYO. STAT. §§ 7-205 to 7-212 (1957) (repealed 1969); and WYO. STAT. §§ 7-214 to 7-219 (1957) (repealed 1969).
13. Doherty v. Patterson, 239 P. 1045, 33 Wyo. 34 (1925).
14. State v. Helton, 261 P.2d 46, 72 Wyo. 105 (1953); State v. Crocker, 40 P. 681, 5 Wyo. 385 (1895).

bail pending appeal.[15] In *Doherty v. Patterson*[16] the Wyoming Supreme Court decided that a justice of the peace has at least concurrent jurisdiction in bail matters with a district court judge up until an indictment or information has been filed in the district court.[17]

Neither the Wyoming Constitution nor the state statutes dealt with the issue of the defendant's right to appeal the decision of the judicial officer who set the bail or with the problem of what is proper bail. In order to comply with the constitutional requirement that "All persons shall be bailable," many judicial officers set the bail at a high amount depending on the seriousness of the crime, generally out of reach of the defendant, rather than at an amount determined to be just after due consideration of the defendant's individual characteristics. This point is illustrated by the results of a statistical survey of the Criminal Dockets in the District Courts of Wyoming:

> There were 510 felony cases filed in the Wyoming District Courts during the period of June 1, 1965 to May 31, 1966. Two hundred and ninety-one defendants were not immediately able to post bond. Of these, 212 eventually pleaded guilty. Defendants unable to post bond spent a total of 10,873 days in jail awaiting disposition of their cases, an average of 37.6 days per defendant.[18]

As one can readily see, prior to the adoption of the new rules of criminal procedure, Wyoming had a monetary bail system whereby bail was set without considering the individual accused. This favored the well-to-do defendant and worked a hardship on the indigent. Jurisdiction for bail moved with the defendant through the state courts and there was no right of appeal in regard to bail matters.

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15. Powell v. Ilsley, 387 P.2d 676 (1963); *In Re* Boulter, 39 P. 875, 5 Wyo. 263 (1895).
16. Doherty v. Patterson, *supra* note 13.
17. *Id.* at 1048.
18. This survey was conducted during the summer of 1966 by student interns at the Wyoming College of Law. The results of this survey have never been published.

THE NEW WYOMING BAIL RULE

The new rule on bail in Wyoming[19] provides that all persons arrested for an offense not punishable by death *shall* be admitted to bail. In regard to capital offenses the rule adheres to the Wyoming Constitution.[20] The rule also provides for bail pending appeal[21] and bail for witnesses.[22] It then enumerates the terms and conditions for setting bail[23] and provides for sureties,[24] forfeiture, enforcement, exoneration,[25] and supervision of detention pending trial.[26] The source of the new bail rule is Rule 46, Fed. Rules Crim. Proc. and Bail Reform Act of 1966, 18 U.S.C. §§ 3146, 3147, and 3151.[27] The fact that the Wyoming Supreme Court went further than Federal Rule 46 and adopted three important sections of the United States Bail Reform Act of 1966, which was the first change in the Federal bail laws since 1789, is a very significant sign indicating the intent of Wyoming's highest court.[28] This Act sought to eliminate the evils of the monetary bail system. It operates without regard to financial status, and at the same time detains or supervises those who pose a substantial risk of flight or criminal conduct.

The sections of the Bail Reform Act which pertain to Wyoming require:

(1) Inquiry into the defendant's character by the judge in order to determine proper conditions for his release.[29]

(2) The judge to release the defendant in accordance

19. WYO. R. CRIM. P. 8.
20. *See* WYO. CONST. art. I, § 14 and WYO. R. CRIM. P. 8(a)(1).
21. WYO. R. CRIM. P. 8(a)(2).
22. *Id.* at 8(b).
23. *Id.* at 8(c).
24. *Id.* at 8(d).
25. *Id.* at 8(e).
26. *Id.* at 8(f).
27. WYO. R. CRIM. P. 8 at 18. It is interesting to note that the official citation for these sections is the United States Code and not United States Code Annotated. Perhaps the Wyoming Supreme Court by citing the source as U.S.C.A. meant to incorporate by reference the cases which had interpreted the Bail Reform Act. The author believes a strong argument could be presented on this point.
28. WYO. R. CRIM. P. 8, 18, 23, 25, and 31 (1969).
29. Bail Reform Act of 1966, 18 U.S.C. § 3146 (Supp. IV, 1965-68). The conditions listed there are the same conditions listed in WYO. R. CRIM. P. 8(c)(2) (*See* Appendix).

with the condition or conditions which will assure the defendant's appearance in court.[30]

(3) Expedited review and appeal of the judiciary's decisions relating to the conditions and amounts of bail.[31]

The intent of the first provision is to individualize bail decisions,[32] *i.e.,* tailor conditions of release to the individual rather than to the crime. Under the second provision the conditions are intended to do away with monetary bail and provide for its use only as a last resort. The third provision, so far rarely used in Wyoming, provides the best tool for proper implementation of Wyoming's bail rule.

The above requirements of the Act and §§ 3151, 18 U.S.C. which preserved the courts power to punish a bail-jumper for contempt, were adopted by the Wyoming Supreme Court as the rule in this decision when it adopted the Wyoming Rules of Criminal Procedure.[33]

When the Wyoming Supreme Court adopted the new bail rule[34] it intended that Wyoming move away from the traditional monetary bail system and implement the conditional release system of the Federal Courts.[35] However, the Wyoming Courts are only paying lip service to the new rule and are continuing to detain or release defendants under the old rule.[36]

The general rule of statutory interpretation is that when a statute is adopted from another jurisdiction the court interpretation from the source jurisdiction is also adopted.[37] There have been numerous recorded cases[38] on the Bail Re-

30. Bail Reform Act of 1966, 18 U.S.C. § 3146 (Supp. IV, 1965-68). The conditions listed there are the same conditions listed in WYO. R. CRIM. P. 8(c) (1) (i) to (v). (*See* Appendix).
31. Bail Reform Act of 1966, 18 U.S.C. § 3146(d) (Supp. IV, 1965-68). This appellate procedure is the same as that listed in WYO. R. CRIM. P. 8(c) (4) and (5). (*See* Appendix A).
32. President's Comm'n on Law Enforcement and Administration of Justice; *The Courts* 39 (1967).
33. WYO. R. CRIM. P. 8 at 18.
34. *Id.* at 14.
35. *See* discussion *supra* note 27.
36. *See supra* note 4.
37. Payne v. City of Laramie, 398 P.2d 557, 560 (Wyo. 1965); Poole v. City of Atlanta, 160 S.E.2d 874 (1968).
38. *See* cases listed in 18 U.S.C.A. § 3146 (1969).

form Act even though it was passed in 1966.[39] To appreciate the holdings of these cases we should look at the purpose of the Act as set forth by Congress:

> The purpose of this Act is to revise the practices relating to bail to assure that all persons, regardless of their financial status, shall not needlessly be detained pending their appearance to answer charges, to testify, or pending appeal, when detention serves neither the ends of justice nor the public interest.[40]

Cases litigated which pertain to the issues here have set forth holdings that represent the following interpretation. The purpose of bail in non-capital cases prior to conviction is to insure defendant's personal appearance at court proceedings.[41] The setting of bail in these cases is mandatory and not discretionary.[42] In setting bail the "judicial officer" must make an independent determination of the defendant's request for bail.[43] In making this determination such information as the defendant's prior criminal convictions[44] and his record of appearance at court proceedings[45]

39. PUB. L. 89-465, 80 Stat. 214 (1966).

40. *Id.* at § 2.

41. United States v. Erwing, 268 F. Supp. 879 (N.D. Cal. 1967).

42. The United States Supreme Court in Stack v. Boyle, 342 U.S. 1, 4 (1951) has said "a person arrested for a non-capital offense *shall* be admitted to bail." Note that the court said "shall" and not "may" (Emphasis added). This makes the setting of bail in Federal non-capital cases mandatory and not discretionary. Federal Rule 46 also uses the word shall rather than the word may. The case of *Herzog v. United States*, 348 U.S. 349, 351 (1955), citing Federal Rule 46, held that "Bail is basic to our system of law . . . . Doubts whether it should be granted or denied should always be resolved in favor of the defendant."

43. Sellers v. United States, 393 U.S. 6 (1968). The Eighth Amendment commands that excessive bail should not be required and to prevent this the "judicial officer" should look at the individual defendant's character.

44. In Ball v. United States, 402 F.2d 206 (D.C. Cir. 1968), the defendant was charged with rape, robbery and sodomy and the court held that $5,000 was not the minimal condition of release and that the defendant, since he had no prior record, should be released on personal recognizance.

45. The case of Wood v. United States, 391 F.2d 981 (D.C. Cir. 1968), shows how far the United States Court of Appeals, District of Columbia Circuit will go to find release conditions. There the defendant, a known narcotic user, applied for bail. The bail was set at $10,000, a figure which he could not meet since he was an indigent. He appealed to the District Court and bail was lowered to the unreachable amount of $5,000. When the Court of Appeals heard the case they remanded on the basis that the defendant had been before a criminal proceeding at least twelve times in the last thirteen years and he had not failed to appear at these hearings. The lower court should look into the facts of his pre-trial release in the prior actions and evaluate them to see if the defendant is a good bail risk. This is based on Crimes and Criminal Procedure, 18 U.S.C. § 3146(b) (Supp. IV, 1965-68), which requires the court to consider the defendant's record of appearance at court proceedings.

must be considered.[46] The Bail Reform Act creates a strong policy in favor of release on personal recognizance. It allows other conditions[47] only when personal recognizance release would not reasonably assure the appearance as required, and uses monetary bail only as a last resort.[48] Presumably, this interpretation represents a brief summary of how bail should be set in Wyoming under the new bail rule.

JURISDICTION AND APPEAL

The question of who has jurisdiction to set bail is interesting since under the federal rule[49] the "judicial officer" to whom application for bail is first made has total jurisdiction until the defendant makes application for review in a higher court.[50] The reasoning and policy for this procedure is shown in the following quote from *Grimes v. United States*:[51]

> We are of the opinion, however, that Congress plainly did not intend the procedures specified in § 3146 and 3147 to be followed once during the pre-indictment stage, and then begun anew after the return of an indictment. Rather, Congress assumed and intended that conditions of release imposed pursuant to § 3146(a) would continue in effect until the accused is either acquitted or convicted, except as modified through the review procedures provided in § 3146(d), (e) and 3147 . . . Congress contemplated that the "appearance" referred to in § 3146 (a) would in most cases be a preliminary hearing, and the "judicial officer" committing magistrate.[52]

46. The case of *Brown v. United States*, 392 F.2d 189 (5th Cir. 1968), held that restrictions on travel and the making of an appearance bond are allowable conditions of release. Earlier, the case of *Allen v. United States*, 386 F.2d 634, (D. C. Cir. 1967), held that the decision to place defendant on bail and accept 8 per cent cash deposit was for the Commissioner and should not turn upon the position taken by the prosecutor.
47. *See* WYO. R. CRIM. P. 8(c)(1)(i) to (v) and *supra* note 3.
48. *See* Pub. L. 89-465, 80 Stat. 214 (1966).
49. *Bail Reform Act of 1966*, 18 U.S.C. §§ 3146(a) and 3146(d) (1966).
50. WYO. R. CRIM. P. 1(b)(1) and (2) define "Commissioner" and "Judicial Officer".
    (1) "Commissioner" means justices of the peace, district court commissioners and other such officers as are authorized by law to commit persons charged with the commission of offenses triable in the district courts.
    (2) "Judicial Officer" means justices of the supreme court, district judges and commissioners.
51. 394 F.2d 933 (1967).
52. *Id.* at 937.

In Wyoming the justice of the peace who sets the initial bail is the only "judicial officer" who has jurisdiction over the bail and unless the accused makes an application to the district court to review the conditions of bail no other "judicial officer" has the authority to distrub the ruling of the justice of the peace. For this reason it is very important that the justices of the peace in Wyoming fully understand Rule 8.[53]

The new bail rule received impetus by the appellate provision contained therein.[54] Under this provision, after the justice of the peace has set the bail, if the accused cannot meet the conditions or bond imposed after twenty-four hours he should make application for review of the conditions with the "judicial officer" who imposed them.[55] If the conditions are not amended the "judicial officer" must set forth in writing why they were imposed and the accused then has a right to make application for review to the next higher court.[56] This right continues all the way to the Wyoming Supreme Court. As stated before, this provision provides the best tool for proper implementation of the Wyoming Bail Rule.

RESPONSIBILITY FOR ENFORCING THE NEW RULE

There is an old saying that "You cannot teach an old dog new tricks," this saying has a message for the bail problem faced in Wyoming and which was confronted in the Fed-

53. WYO. R. CRIM. P.
54. *Id.* at 8(c)(4) and (5).
55. In Shackelford v. United States, 383 F.2d 212 (D. C. Cir. 1967), it was held that under the provision of the Bail Reform Act of 1966 [18 U.S.C. § 3146(d) (Supp. IV, 1965-68)] an accused, who after 24 hours is unable to satisfy the conditions of pre-trial release imposed by a committing magistrate, must first seek review of the conditions of release by the "judicial officer" who imposed them before requesting amendment of the conditions by the District Court. The court expressly left open the question of whether the review of conditions of bail by the officer who imposed the conditions is a prerequisite to the district courts amending the bail.
56. In Grimes v. United States, *supra* note 51, at 939, the court ruled that the court officer who first imposed conditions of release must review these conditions upon application of the defendant if he is unable to meet the conditions after 24 hours. This court officer must set forth in writing his reasons for not amending the conditions of release before the defendant then has a right to have such conditions reviewed by the next higher court. If the court officer who imposed the conditions is unavailable to review the conditions the defendant may make immediate application to the next higher court.

eral Court system and the various state jurisdictions which have also adopted the Bail Reform Act of 1966. It is hard to change the bail procedures which have been implemented daily since 1789. In the federal system the way was paved for change by the writing of scholars and interested parties who devoted time and energy to educating people to the problem.[57] Several bail projects preceded the new act and helped focus attention on the injustice, wastefulness, and unfairness of the old system.[58] Due to these writings and studies the new act was readily accepted and after numerous cases litigating the various points of the Act it appears the new system is alleviating some of the shortcomings of the traditional system.

The new system was adopted in Wyoming without the benefit of the educational process described above. Although many members of the bar and the judiciary are aware that the old system imposes an injustice on the indigent and unpopular defendant, most are not fully aware that the Wyoming Supreme Court has provided the tools to correct it. On February 21 and 22, 1969, an Institute on the Wyoming Rules of Criminal Procedure was held at the University of Wyoming. This was the first introduction to the new rules for the majority of the legal and law enforcement authorities in the state.[59]

Since no other materials are available on this subject in Wyoming and since the majority of the states are still following the old rather than the new bail system, the question of who has the responsibility for the proper administration of the new rule arises.[60]

The lawyer has a responsibility to his client and under the rules this responsibility would entail the furnishing of

57. For an example *see:* Foote, *The Coming Constitutional Crisis in Bail,* 113 U. PA. L. REV. 959 (1965).
58. For an example *see* Ares, Rankin & Sturz, *The Manhattan Bail Project—An Interim Report on the Use of Pre-Trial Parole,* 38 N.Y.U. L. REV. 67 (1963).
59. A transcript of this proceeding was recently published and therein is contained some discussion of rule 8 plus an article by the Honorable William E. Doyle, U.S. District Judge for the District of Colorado which will prove very helpful in the education of Wyoming lawyers and judicial officers in regard to the implementation of the new bail rule.
60. *Supra* note 4.

information to the court of the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions and his record of appearances at court proceedings or of flight to avoid prosecution.[61] This fact-gathering role of defense counsel may raise a fundamental question of ethics: Is it the duty of counsel to secure release on conditions most convenient to his client or to assist the court in setting conditions which will effectively assure the client's return? The legislative history of the Bail Reform Act suggests an assumption by some that the release hearing is not to be adversary in nature and that counsel is to act as an officer of the court.[62] As a practical matter the defense counsel acting as an officer of the court is the only feasible way this system could work in Wyoming. If it were adversary the courts would tend to question the defense counsel's viewpoint and the prosecutors would have to go to extra expense to check into the background of the accused under very unfavorable conditions. If the state were required to create an independent agency to perform this fact-finding function, the cost would be prohibitive.

An additional duty of the attorney under the new rule is to fully exhaust the remedies of the accused in attempting to get him released on the most favorable condition or conditions which will assure his presence in court. This entails making applications for review of the conditions imposed as provided by Rule 8(c)(4) and by appealing the "judicial officer's" rulings until the defendant is free on conditions which he can justly meet or until the highest court in the state rules that the conditions imposed are reasonable.

The judiciary also has a great deal of responsibility in the proper administration of the new bail rule. Perhaps the job of the justice of the peace is the most important in this area. He has jurisdiction and must review every application for bail on an individual basis. He must consider all the factors required by Rule 8(c)(2) and not be influenced by

61. WYO. R. CRIM. P. 8(c)(2).
62. *See Hearings on S. 645 Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 89th Cong., 1st Sess. 170 (1965).

recommendations of the prosecutor. He must strive to find non-financial conditions which will assure the defendant's presence at all court proceedings. If he is required to review the conditions imposed and can find no other alternative he must give his reasons, in writing, why they are imposed and not amendable.

The District Court judge must respect the jurisdiction of the justice of the peace and not rule on the bail unless it is before him on review even though the rest of the case is in his jurisdiction. When he is called upon to review the case he must review it on an individual basis and attempt to release the defendant on the most practical conditions if possible.

The Wyoming Supreme Court has the ultimate duty to insure that the rule is properly administered. It passed the rule after very careful study and consideration and determined that the rule would provide justice for all in Wyoming. If the court's intent is not complied with and only lip service is given to the new rule the court should act to insure that the procedures provided by the act are enforced and that preventive detainment is abolished.

CONCLUSION

The Wyoming Supreme Court has adopted Rule 8 as the bail rule in Wyoming. This equality rule should be properly implemented in order that all persons accused of crime will have the same chance for pre-trial release regardless of their financial status. The defense attorneys in Wyoming must educate the people of the state as to the provisions of the rule. In this way counsel will protect the interests of his clients and prevent the courts from unjustly incarcerating people accused of crime before they are convicted. The "judicial officers" of the state must realize that the rule has changed and attempt to release defendants on non-financial conditions which will assure their presence in court. The Federal and other vanguard jurisdictions which adopted this type of bail rule were reluctant to follow them at first, but

experience has proven to them that proper implementation of the rule has remedied many of the shortcomings of the traditional bail system. Time and a determined effort by all facets of the legal branch will prove this to be the case in Wyoming also.

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APPENDIX A

The text of the provisions in Wyoming Rules of Criminal Procedure which will be discussed in this comment are as follows:

Rule 8. Bail: § (a) *Right to Bail* (1) *Before Conviction* A person arrested for an offense not punishable by death shall be admitted to bail. A person arrested for an offense punishable by death may be admitted to bail by any court or judge authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense, except that where the proof is evident or the presumption great a defendant shall not be admitted to bail . . .

§ (c) *Terms* (1) Any person charged with an offense other than an offense punishable by death, shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the judicial officer determines in the exercise of his discretion that such a release will not reasonably insure the appearance of the person as required. When such a determination is made the judicial officer shall, either in lieu of or in addition to the above methods of relief, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

> (i) Place the person in custody of a designated person or organization agreeing to supervise him;

(ii) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(iii) Require the execution of an appearance bond in a specified amount and the deposit in cash, or other security as directed, of a sum not to exceed ten per centum of the amount of the bond, such deposit to be returned on the performance of the conditions of release;

(iv) Require the execution of a bail bond with sufficient solvent sureties or the deposit of cash in lieu thereof;

(v) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.

(2) In determining which conditions of release will reasonably assure appearance, the judicial officer shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions and his record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings. . .

(4) A person for whom conditions of release are imposed and who after twenty-four hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and a person is thereupon released, the judicial officer shall set forth in writing the reason for requiring the conditions imposed. A person who is ordered released on a condition which requires that he return to custody after specified hours, shall, upon application, be entitled to a review by the judicial officer who imposed the condition. Unless the requirement is removed and the person is thereupon released upon another condition, the judicial officer shall set forth in

writing the reasons for continuing the requirement. In the event that the judicial officer who imposed conditions of release is not available, any other judicial officer in the county may review such conditions.

(5) A judicial officer ordering the release of a person on any condition specified in this rule may at any time amend his order to impose additional or different conditions of release; provided, that if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on the condition requiring him to return to custody after specified hours, the provisions of subdivision (4) shall apply.