



DA, court look at new rules for bondsmen

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Lancaster

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In spring 2009, Lancaster city police arrested Noel Rivera and charged him with possessing, with intent to deliver, 625 bags of heroin and 6 grams of cocaine.

Police also charged Rivera with tampering with evidence by trying to flush the heroin down the toilet.

Rivera, then 51 years old, went to Lancaster County Prison.

James Fabie, a Lancaster bail bondsman, posted \$250,000 bail. Fabie collected 5 percent — \$12,500 — from Rivera as his fee and promised the county he would cover the \$250,000 if Rivera didn't show up for court hearings.

Rivera pledged not to commit new criminal offenses while on bail.

Court proceedings repeatedly were delayed.

In spring 2010, while still on bail, Rivera allegedly delivered heroin and cocaine to a police informant.

Assistant District Attorney Robert Smulkis, prosecutor in the case, asked that Rivera's bail be forfeited because of the new offense. Judge James Cullen granted that request.

But then Fabie asked the court to exonerate the debt. Judge Dennis Reinaker granted his request, and Fabie paid no penalty to the county.

That's when District Attorney Craig Stedman and Smulkis decided the bail system in Lancaster County needs to be overhauled.

"It's an appalling process," Stedman says, "and it's appalling for the taxpayer."

So the district attorney's office has been working to rein in bondsmen and, in turn, the people they bail out of jail.

"These defendants purposely miss court hearings or are re-offending," Smulkis says. "Then, if we ask for the bail to be forfeited, the bail bondsmen oppose that and the judge grants an exoneration."

Or, in other cases, the judge does not grant an exoneration, and the bondsman is left owing the county the full amount of bail — but too often does not repay it.

One bondsman, Sylvester "Casey" Jones, owes the county \$450,000 in forfeited bail.

That amount represents about 25 individual bail-jumpers over the past three years. Forfeited bail ranges from \$1,000 to \$100,000 per individual.

Last summer, Stedman, in conjunction with the county's assistant solicitor, Nicole Decker, drew up new guidelines to prevent bondsmen from running up such a tab in the future.

They asked the Lancaster County Court of Common Pleas to accept the guidelines.

The court modified the proposals, which have yet to be approved by the state court system, and the result has not entirely pleased either prosecutors or bail bondsmen.

The new rules would require bondsmen to deposit a reserve account of \$25,000 with the county and would set the maximum amount any bondsman could owe the county at \$300,000.

These rules would apply only to bondsmen who begin practicing in Lancaster County after the rules take effect. No current bondsman, including Jones, would be affected.

If the state court system approves the rules, they would take effect in June, according to Reinaker, who has coordinated the local court's development of the new rules.

The county regulations would add to state requirements to obtain a bondsman's license. To become a bondsman now, one must have little more than an office with a telephone, a positive credit history and no criminal record.

"The requirements to get a license are fairly minimal," says Decker, the self-described "bail queen" who coordinates collection of bail forfeitures. "I was surprised when I first saw them. It appears there is no requirement dealing with finances or assets."

Bondsmen's business

There are two types of licensed bondsmen: individual bail providers and national insurance companies that employ local agents.

Three individual bondsmen write the vast majority of secured bail contracts here. Those three also owe about 95 percent of all forfeited bail.

Jones, who owes almost all of that money, is the county's "one notorious bondsman," according to Decker.

"He's the No. 1 problem child, but he's willing to work with the county," she adds. "He never misses a payment. He's always on time."

Under a repayment contract worked out with Decker, Jones pays about \$9,000 a month — more than \$100,000 a year — on his debt.

That means he has to write bail for many new clients in order to pay what he owes and still take anything home. His office, in the 400 block of South Prince Street, is busy all the time.

"It's not like I'm trying to run from the big debt I have," says Jones, a former assistant principal at McCaskey High School who says he could "make a real good living" if he didn't have to pay \$9,000 to the county each month.

Jones, who has covered bail for hundreds of prison inmates, says a few bad apples who jumped bail have undermined him.

Many of the 110 secured-bail forfeitures in 2010 were Jones'. Eight of last year's 10 unresolved forfeitures are his.

"A lot of people just don't show up for court," Jones explains. Sometimes that problem can be resolved by a phone call.

He says he finds 80 percent of the actual runaways with the aid of Harry Drennen, a local fugitive recovery agent, better known as a bounty hunter.

The other 20 percent seem to be gone for good, and Jones is responsible for paying the county \$450,000 for the bail they forfeited.

Other local bondsmen are James Fabie (Lancaster Bail Bonds) and Zeke Kopeika (Zeke's Bail Bonds). Both have offices just across North Duke Street from the Lancaster County Courthouse.

Kopeika, who owes the county just over \$6,000 on one \$15,000 forfeiture, declined to be interviewed for this story.

Fabie has never owed the county anything.

"We have never missed a payment," Fabie explains. "We go after our guys and bring them to court. I pride myself on trying to make a good bail."

Why the vast difference in amount of money owed?

"Compared to Mr. Fabie, I think Mr. Jones spends less effort locating the defendant," Decker observes.

"He's also probably writing for riskier defendants," she adds. "He's under pressure to pay the county every month, so he's looking harder for business."

Bail bondsmen in Lancaster County can collect hefty amounts of money from defendants they bail out of jail, according to quarterly reports they file with the county's Clerk of Courts.

Fabie reported collecting \$45,000 in January, \$29,000 in February and \$19,000 in March.

Jones reported \$24,000 in March. Kopeika reported nearly \$20,000 in March.

Bondsmen make individual deals to cover posted bail. They prefer cash, but if that is not immediately available, they will place a lien on property — usually a house or car — until the defendant produces cash.

The percentage amount bondsmen require up front varies.

Fabie takes an average of 4 percent of the bail amount from each defendant. The \$19,000 he collected in March covered \$477,000 in bail.

Jones and Kopeika usually take 4 to 5 percent of posted bail. But sometimes they take 10 percent or more. Kopeika reported charging one defendant \$2,600 on bail of \$7,500 in February.

Fabie covers many of the largest bail amounts for potentially riskier clients. In January, Fabie took \$9,000 for posting \$300,000 bail for one defendant and \$10,000 for posting \$200,000 bail for another.

Case for strictness

Those dollar amounts don't sit well with Stedman.

"The more bonds they write, the more money they make," he says. "What a temptation to make such easy money. It's outrageous what they make. It's outrageous what they owe."

At \$20,000 or more a month, Stedman notes, one bondsman can earn what several assistant DAs make.

Adds Smulktis, "Regardless of what they make, if they do any sort of investigation before they're willing to post bail for defendants, then they're actually protecting the community. But I don't get the impression that all of them feel that way."

To encourage bondsmen to do more both to consider public safety when writing bail contracts and to recover bail-jumpers, Stedman's office suggested stricter requirements.

Stedman wanted to require bondsmen to turn over \$50,000 to the county in advance. He wanted to limit bondsmen's total debt to \$100,000. He wanted to extend these limits to current bondsmen, which would have put Jones out of business.

"Other counties have stricter rules," Stedman explains. "So should we."

In Montgomery County, bondsmen must give \$50,000 to the county before they begin work. In Lehigh County, bondsmen's total debt limit is \$100,000.

But the bondsmen pushed back at the proposed new regulations.

"Every time I turn the corner, there are more and more restrictions," Jones complains. "It's harder to stay afloat."

Drennen, the bounty hunter who occasionally writes bail bonds for Fabie, observes that "they're imposing these rules on us, but what about all those people you have on unsecured bail? Are they going to have to pay?"

Bail is unsecured when no money or property is required to be posted as security.

Tens of thousands of dollars in unsecured bail is lost each year when defendants don't show up for court hearings. No one maintains countywide records on unsecured bail.

Of 535 bail forfeitures last year, 425 were unsecured, and 175 of them remain outstanding.

But secured versus unsecured bail is apples versus oranges, according to Stedman, who says defendants are offered unsecured bail because their offenses are minor and they present little or no threat to public safety.

"We can't go after all the unsecured bail-jumpers," he says. "We can't lock up everybody."

Judge Reinaker agrees, adding, "Remember, the defendants are presumed innocent of the charges, and the purpose of bail is to ensure their appearance."

Look at circumstances

As for concerns about the court exonerating defendants who have had their bail forfeited, Reinaker says the judges look at individual circumstances.

"All too often, the missed appearance has resulted from a lack of communication between attorney and client," he explains.

If a defendant purposely flees, he says, the bondsman is responsible for finding him within a reasonable time.

But if a defendant commits a crime while on bail, he notes, the onus should be on the defendant, not the bondsman.

"To hold bondsmen monetarily accountable for the behavior of their clients while on bail seems quite a stretch to me," Reinaker says.

In the case of Noel Rivera, the judge explains, the re-offending defendant rightfully was sent to Lancaster County Prison. But the judge saw no reason to make Fabie pay for Rivera's offense.

"I have a hard time understanding why the DA would be involved, or even interested, in whether or not a bondsman should ultimately be required to make payment on the forfeiture," Reinaker says.

The judge has a lengthy history with bail bonding in Lancaster County.

Sixteen years ago, when Reinaker was in private practice, the county asked him to begin collecting forfeited bail money.

"Forfeitures meant nothing at that time," he says. "Bondsmen hadn't been collecting before, and the county hadn't been pushing them."

From 1995 to 1998, with Reinaker's help, the county collected more than \$1 million on bail forfeitures.

Even at that time, Reinaker notes, Sylvester Jones owed about half a million dollars.

"But he always makes his payments," says the judge, who lobbied for not making Jones abide by the new rules.

Nicole Decker has no problem with that.

Jones' monthly payments have increased since she took over as forfeiture enforcer three years ago, she notes, and his new forfeitures have decreased in number.

"I'm trying to whittle down the big pot of money," she says. "That's why Mr. Jones is treated differently, and we have a monthly payment plan for him."

The new rules would not allow a repeat performance.

"My concern is there not become lots of Casey Joneses," she says. "We don't want more people who have large amounts of forfeitures."

