

You Got Your Client Out!
Now, How Do You
Actually Get Your Client
Out?

FEDERAL DEFENDERS OF NEW YORK, INC.

A word about these webinars

- ▶ Email overload?
- ▶ Everything is changing
- ▶ Weekly sessions to keep you up-to-date on the most pressing areas of COVID-19 related litigation
- ▶ Any “handouts” or materials we reference will be posted on our website:
 - ▶ <https://federaldefendersny.org/cja-resources.html>
- ▶ Working on being able to offer CLE credit
- ▶ Mondays from 3:30-5:00, maybe others if there’s breaking news
- ▶ All defense attorneys welcome

Today's Experts

- ▶ David Patton, Executive Director, Federal Defenders of New York, Inc.
- ▶ Rachel Bass, Chief Paralegal, FDNY Brooklyn
- ▶ Rheem Brooks, Chief Paralegal, FDNY Manhattan
- ▶ Isaac Wheeler, Attorney, FDNY

Congratulations!

- ▶ Congratulations! You got your client out!
- ▶ Why isn't your client out?
- ▶ First, Release logistics for bail and compassionate release
- ▶ Second, Reporting logistics for Pretrial and Probation

Client Released on Bail

- ▶ Court orders client released on bail
- ▶ Marshals will run warrant check and notify MDC/MCC when to release
- ▶ We are supposed to be copied on that email so we can let the attorney know release is imminent and coordinate
- ▶ Marshals' email should have release instructions and a copy of the bond

Client Released on Bail

- ▶ Client given the following instructions:

Instructions for individuals being released directly from jail

A judge has ordered your release directly from jail, as opposed to from the courthouse, due to the extraordinary circumstances related to the COVID-19 pandemic.

When you leave jail, you will be given a copy of the bond which explains the specific conditions of your release. Your lawyer's name and contact information is on the bond.

It is your responsibility to

Follow all of the conditions that are on this bond

Contact your lawyer within **24 hours of your release** from custody to confirm you have received the bond and discuss the conditions with your lawyer.

If you do not abide by all of the conditions on your bond, the judge could revoke your bail and you could return to prison.

If you have questions about the bond or the conditions of your release, ask your lawyer and he or she will explain it to you.

Compassionate Release: Time Served

- ▶ Yay! Your client is resentenced to time served
- ▶ So-ordered letter won't get your client out
- ▶ Lengthy opinion on why release is justified (and why exhaustion is not required, etc.) won't get your client out

Time Served Order

- ▶ You need a short and sweet order saying your client was sentenced to time served
- ▶ For example:

To: U.S. Marshals Office

It is hereby ordered :

That the Defendant, CLIENT, Reg # XXXXX-XXX, having been sentenced in the above case to a term of Time Served; The U.S. Marshals are to release the defendant unless any pending warrants, detainers or other issues are encountered.

USDJ, Date

Who Needs the Order?

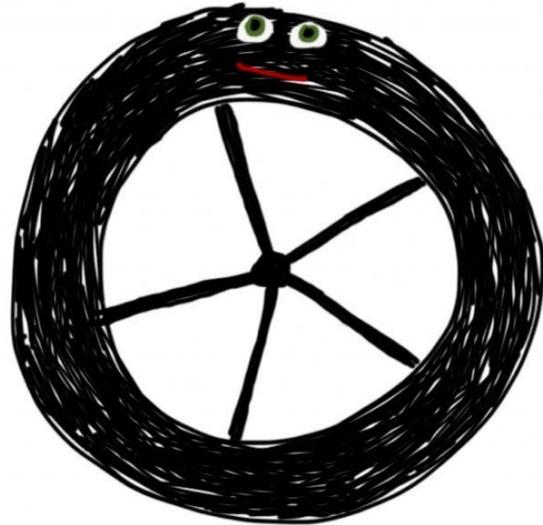
- ▶ You, so you can make sure everyone else gets it
- ▶ Ask Chambers to send a copy to:
 - ▶ The Marshals
 - ▶ SDNY: USMS.NYSCrimSec@usdoj.gov
 - ▶ EDNY: Peter.Lee@usdoj.gov
 - ▶ The BOP
 - ▶ DSCC: GRA-DSC/TeamDelta~@bop.gov
 - ▶ MDC: BRO/ExecAssistant@bop.gov and hpratesi@bop.gov
 - ▶ MCC: NYM/ExecAssistant@bop.gov and hpratesi@bop.gov
 - ▶ Or Legal at Client's facility from bop.gov

Who Needs the Order?

- ▶ Ask Chambers to send a copy to:
 - ▶ The AUSA (and ask them to help facilitate the release)
 - ▶ Legal Department at Client's institution

And then what?

I AM WHEEL. HEAR ME SQUEAK.



Be The Squeaky Wheel

- ▶ No one else is going to rush to get your client out
- ▶ Once you get the order, send it to everyone
- ▶ And then start calling. And calling.

Be The Squeaky Wheel

- ▶ Here's the response you might get from DSCC:
 - ▶ Your e-mail has been received by Team Delta. If you do not receive an electronic or telephonic response within 48 hours, please contact contact Frankland Clarke, Operations Manager, at 972-595-3142.

Delta Team Staff:

Operations Manager- Frankland Clarke, 972-595-3142

Michael Amos, CCS, 972-595-3136

Johnna Burrows, CCS, 972-623-5924

Raymond Lopez, CCS, 972-595-3074

Chansee Tabb, CCS, 973-595-3169

Ericka Williams, CCS, 972-595-3163

LaTasha Finley, CCT, 972-595-3171

Danica Ramirez, CCT, 972-595-3170

Sierra Tate, CCT, 972-623-5979

Cherie Thomas, CCT, 972-595-3164

LaCinda Sanders, CCT, 972-595-3165

Jauntae White, CCT, 972-623-5915

Be The Squeaky Wheel

- ▶ Response from MDC/MCC?
 - ▶ Mr. Client has been resentenced to time served.
 - ▶ The Marshals need to send it to DSCC for a sentence recalculation.
 - ▶ Um, we got a bounce-back from the main email. Do you have a better one?
 - ▶ that is the address I have as well.
 - ▶ Can you keep me posted on Mr. Client's time of release?
 - ▶ You will have to call the main number and ask for R&D. Receiving and discharge.

Reporting to Pretrial

- ▶ Speak to Client about bond conditions, sign the bond remotely
- ▶ SDNY
 - ▶ Trying to coordinate with BOP and defense attorney about need for quarantine
 - ▶ Release orders generally specifying 14-day quarantine
 - ▶ Dennis Khilkevich coordinating Location Monitoring

Reporting to Pretrial

- ▶ Speak to Client about bond conditions, sign the bond remotely
- ▶ EDNY
 - ▶ Non-LM Cases: Client will be contacted by their officer and should not report to the pretrial office
 - ▶ LM Cases: Contact officer upon release to arrange installation
 - ▶ If released after business hours, make sure clients call and leave a message when they arrive home

Reporting to Probation

- ▶ SDNY
- ▶ EMAIL NYSP_Intake@nysp.uscourts.gov
- ▶ Or text **Officer Jana Nieman** at **646-879-6443** or **Officer Taylor Shargay** at **917-418-5008**
- ▶ Or leave a voicemail for **Officer Jana Nieman** at **212-805-5077** or **Officer Taylor Shargay** at **212-805-0300**
- ▶ Si no puede enviar un correo electronico, comuniquese con uno de los oficiales de admission por telefono, se prefiere un mensaje de texto o puede dejar un mensaje telefonico por **Oficial Marcela Bravo 646-210-0046** o **Oficial Sonales Gonzalez 917-642-5948**

Reporting to Probation

- ▶ EDNY
 - ▶ If your client does not have a Location Monitoring/Home Confinement condition, upon release they should contact 347-534-3401.
 - ▶ For all Location Monitoring (home confinement, curfew, etc.) related releases, they should contact Joanmarie Langone upon release at 347-534-3675. She will log them into a spread sheet and assign the case, and then they will call in for processing and receive further instructions.

Immigration Considerations?

- ▶ **Is there a detainer? How do I know?** USMS; BOP counsellor; BOP “SENTRY” report; PSR; USAO (careful)
- ▶ **Will ICE act on the detainer?** It depends. Contact me: isaac_wheeler@fd.org.
 - ▶ **Pretrial release, NY region:** ICE may not detain!
 - ▶ **Post-judgment release:** ICE much more likely to detain, but can advocate for release.
 - ▶ Contact local “ERO” field office for site of release
 - ▶ Request non-detained removal proceedings for lawful residents without removal orders
 - ▶ Request “self-removal” 8 CFR 241.7. Especially likely if amenable to summary removal under 8 USC § 1225(b), 1228(b) or Judicial Order of Removal under § 1228(c).
 - ▶ Refer to ICE April 4 COVID Policy; *Fraihat* custody review factors <https://www.splcenter.org/fraihat-v-ice-community-resources>
- ▶ **It has been 48 hours. What do I do?** Complain!! 8 C.F.R. 287.7(d).

Getting Medical Records to Support Release Requests

- ▶ Easiest: Ask the AUSA to get them
- ▶ For Compassionate Release:
- ▶ BOP says it is prioritizing requests for people who meet “traditional” compassionate release criteria (terminal, debilitated, elderly with medical conditions, etc.) and who would be especially vulnerable to COVID-19 under CDC guidelines, and
- ▶ have exhausted administrative remedies or for whom the lapse of the 30-day statutory period looms.

Getting Medical Records

- ▶ Certificate of Identity – Client keeps original and sends you a copy
- ▶ If your client is terminally ill or debilitated under Program Statement 5050.50:
- ▶ You **need not wait** to receive the COI form to begin your request.

Getting Medical Records

- ▶ Send an email to the BOP legal counsel responsible for the institution where the prisoner is incarcerated.
- ▶ In the **subject line write:** "Medical Records (client name and register number)."
- ▶ In the **body of the email state:**
 - ▶ That your client is either terminally ill or debilitated.
 - ▶ That you are seeking medical records for X period.
 - ▶ That you have your client's permission to receive the records you are requesting.

Getting Medical Records

- ▶ Attach as complete a COI as you can for your client to sign as well as an email from your client authorizing you to make the request if you can
- ▶ Wait a reasonable amount of time
- ▶ Forward your email to BOP-OGC/ExecAssistant~@BOP.gov

Getting Medical Records

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Getting Medical Records

Expert paralegal tips?

