Thank you for inviting Aladdin to provide input regarding bail and pretrial process in Santa Clara County. We look forward to attending and supplying valuable insight into Aladdin’s commitment to helping clients with limited financial means, providing release in the most efficacious manner and guarding the public’s safety.

The commercial bail bond business has been operating in California for over a century. Our sustained success is due to the fact we have been accomplishing our primary purpose, better than any other system, for over 118 years. The primary purpose of bail is not social justice, jail reform or criminal justice reform. The primary purpose of bail is to ensure the defendant attends all scheduled court appearances and the disposition of their case. To this end commercial bail, and in particular Aladdin, work tirelessly around the clock to produce the best results out of all the pretrial release options. Our collective success in the commercial surety industry is measured in several different ways.

The first way we measure success is, does the defendant shows up for court? This is often referred to as the failure to appear rate (FTA). To the uninformed, this statistic is often misinterpreted. It should correctly be talked about in two ways: 1) does the defendant miss any court appearance and; 2) does the defendant’s court case ever get resolved? Under either analysis, commercial bail is the most successful at assuring both and operates at no tax payer cost. There is no shortage of government agencies, like the Bureau of Justice Statistics (BJS) under the Department of Justice (DOJ), and independent scientific studies that have looked into this. The consensus is clear to anyone willing to examine the data. BJS in their 2007 study found commercial surety agents return circa 97-98% of all FTA’s. Defendants who are not released on commercial surety are at least twice as likely to miss even one court date. In California and specifically in Santa Clara County, the BJS found a defendant released

1 US Court of Appeals 11th Circuit in United States v. Diaz says that the primary purpose of bail is to assure the defendant’s appearance at all required court proceedings and trial. In United States v. Ryder, the Supreme Court states: “…the object of bail in criminal cases is to secure the appearance of the principal before the court for purposes of public justice.” In hundreds of appellate cases, California has said: “The object of bail is not to produce revenue for the state or county or to punish the surety in the event of a breach of the obligation but to insure the attendance of the principal and his obedience to the orders and judgment of the court.” (See People v. Ramirez (1976) 64 Cal. App. 3 d 391.).


3 Cohen, T. H. (2009). Commercial Surety Bail and the Problem of Missed Court Appearances and Pretrial Detention. 331-355, pp. 355. Cohen in his study compared 5 counties with commercial surety bail to 5 counties without commercial surety bail. Failure to appear rates for non-surety counties was 21%, for surety counties it was 11%. Cohen’s paper compares defendants released in counties where surety bond agents are involved in nearly all aspects of the pretrial release decision against a set of counties where bond agents play little to no role in pretrial release. Data for this paper was compiled by the BJS under the SCPS. Cohen used data from SCPC covering 2000, 2002 and 2004. He selected 10 counties from the SCPS dataset in which commercial bond agents were either the predominant form of pretrial release or had little role in the pretrial release decision. The surety counties encompass jurisdictions from Dallas, El Paso, Harris and Tarrant counties in Texas and Shelby, Tennessee. The non-surety counties hailed from Cook, IL; Montgomery, MD; Pima, AZ; Philadelphia, PA; and Wayne, MI. In the surety counties, nearly 90% of felony defendants were released through commercial surety bond. In the non-surety
on his own recognizance (OR) was 60% more likely to FTA than if he had been released on a surety bond.\(^4\) Granted, the FTA numbers can be slightly misleading due to the fact that a great many defendants “FTA” unintentionally i.e. forget a court date, sleep in or car troubles.

A common alternative argument is the only FTA that needs addressing is the true intentional absconder, to wit, those who intentionally flee to become fugitives. The BJS found that defendants who FTA even once, were two and half times more likely to remain a fugitive if released under any type of release, excluding a secured bond. Said differently, if released on a surety bond a defendant who missed even one court appearance was two and a half times less likely to remain a fugitive than release on OR, deposit bond or conditional release.\(^5\) A multitude of other separate and independent studies have come to similar conclusions. Whether the goal is to prevent any missed court appearance or to prevent the long term fugitives, commercial surety has superior success to any other prerelease option. Additionally, commercial surety bail provides this service to the County of Santa Clara at no cost to the taxpayer. In fact, it offers a tax advantage by providing funds to the court through license fees, forfeitures and application fees.

The second method the commercial bail industry, and specifically Aladdin, use to ensure defendants appear in court, is to recapture fugitives. This protects public safety by removing intentional absconders from society thus preventing additional future crimes. At Aladdin, we perform several preventative and proactive means to protect citizens from absconders. All defendants are called before their court date to remind them of time and place. Additionally, we require periodic check-ins throughout the trial process. As a last resort, we have whole dedicated teams of recovery agents whose sole task it is to track down and locate defendants who have become fugitives and bring them into court. The entire over-head of such a system is borne solely by Aladdin, and at no cost to the Santa Clara taxpayer. Police often lack the luxury of dedicated time, resources and manpower to tracking down and serving warrants. The problem of a lack of manpower on the part of the police to bring fugitives to justice is so widespread that there is effectively no consequences for not appearing in court. The problem can have graver consequences than just backlogged bench warrants.\(^6\)

In Santa Clara this has been of particular concern as Public Defender John Hirokawa, Chief of Correction well knows. “Some counties have turned to extreme measures such as offering amnesty periods. Santa Clara County in California, for example, has a backlog of 45,000 unserved criminal arrest warrants and in response has advertised a hotline that defendants can use to schedule their own arrests.”\(^7\)

\(^4\) Block, M. K. (2005) The Effectiveness and Cost of Secured and Unsecured Pretrial Release in California’s Large Urban Counties: 1990-2000. Quoting Cohen, T. H. & Reaves, B. A. (2007). Bureau of Justice Statistics Special Report, State Court Processing Statistics, 1990-2004, Pretrial Release of Felony Defendants in State Courts. The statistics used by Block are from the U.S. Bureau of Justice Statistic (BJS) from 1990-2000. BJS collects a sample of felony cases filed during one month (May) in 40 of the nation’s largest 75 counties. Of the 40 counties sampled, 6-9, depending on the year, are among the 12 largest counties in California. (The number has grown from 6 in 1990 to 9 in 2000.) These California counties make up Block’s sample and, while the sample does not contain all of the large urban counties in California, the sample always includes Los Angeles County, Santa Clara County, San Bernardino and a representative sample of the other large urban counties in the state.

\(^5\) Id.


\(^7\) See Jane Prendergast, Warrant Amnesty Offered for 1 Day, Cincinnati Enquirer, November 19, 1999, for description of a similar program in Kenton County, Kentucky. See also Henry K. Lee & Kenneth Howe, Plan to Clear Backlog of Warrants: Santa Clara County Offering Amnesty to Some, S.F. Chron., January 12, 2000, at A15.
“The sheriff’s office has no way of telling how many of the latter are minor crimes that would result in a citation under the new program, including offenses such as petty theft or trespassing -- they would have to be gone through one by one, Hirokawa said.”

Again, the current system protects the public from having to grant amnesty to fugitives and does so at no taxpayer cost and in fact generates revenue for Santa Clara County.

Lastly, Aladdin has a commitment to helping those with limited economic means to secure their release. From its inception, Aladdin has understood the terrible strain being away from family, work and other obligations can have on an individual and their loved ones. Aladdin provides an affordable payment program for defendants with limited financial means to secure their release by financing their bail premium into payments. Aladdin uses a credit report and monthly financial statements, of defendant and cosigner(s), to understand their economic realities and tailor a down payment and future payments defendants and their cosigner(s) can manage. Aladdin further offers this service to distressed defendants at no additional cost or interest.

These are examples of Aladdin commitment to ensuring anyone has the chance to secure their release regardless of socio-economic status, while simultaneously protecting the public from fugitives. The commercial surety industry accomplishes this goal better than any other pretrial option evidenced by returning 97-98% of all defendants who have an FTA all at no cost to Santa Clara County. In fact the commercial surety industry generates valuable revenue for the County in a time of wide spread budget strains on our local law enforcement and court system.

Thank you for your time and the consideration of this material. If there are any follow up questions, need for clarification or requests of further sources in support of this statement please do not hesitate to ask.

Marc Ebel
Director of Legislative Affairs
Triton Management Services, LLC
1000 Aviara Parkway Suite 300
Carlsbad, CA 92011
Mebel@tritonmsllc.com
Direct: (760) 692-9212
Cell: (509) 860-0140

---