Serious Trouble Indicated For N.O. Bail Bond System

By ALLAN KATZ

Where does the bail bond system go from here?

A sifting of the evidence would indicate it's in a lot of trouble.

The public treasuries are owed $720,775 in debts accumulated during a period from 1966 to the present by just one bail bonding company—the Maryland National Insurance Company. Maryland has a deposit of only $70,000 with the state of Louisiana.

Even worse, as this series has documented, there is evidence many persons accused of crimes are released on bail, never appear for trial and are not actively sought unless they are caught committing a second crime.

THE FOUR MEN WHO CAN answer the question, "where is the bail bond system going from here?" will be available for public questioning in the next 90 days.

They are the men running for Orleans Parish district attorney in the Nov. 8 Democratic primary.

The first, of course, is incumbent Jim Garrison.

Opposing him, presented in alphabetical order, are Harry Connick, Ross Scaccia and Charles Ray Ward.

Each has presented his views on what needs to be done about the bail bond system.

The incumbent, Garrison, says he never has been timid about bail bond reform.

WHEN HE WAS ELECTED in 1962, he moved against flaws in the bail bond system.

In 1966, he was censured by the Legislature when he suggested that body might well probe the possibilities of bribery in the passage of a law that aided the bail bond companies.

The law, which Garrison says is responsible for much of the bail bond system's failures, gives a bail bond company a six-month grace after a bond has been forfeited.

By stringing out the process to six months before the DA can move to forfeit a bail bond enormously complicates the bookkeeping necessary to track the bail bonding business, says Garrison. By the time the six months has expired and more time is taken for an appeal by the bail bond company, a year may well have elapsed before the DA can seize a forfeited bond.

GARRISON SAYS THAT as DA he has to take responsibility for the failure to collect forfeited bail bonds in the period from 1966-69.

He has now instituted court proceedings to collect the $720,775 owed. These are presently tied up in federal court.

And, Garrison says he has appointed Assistant DA Shirley Wimberly Jr. to set up a fool-proof system that will prevent a recurrence of the errors that allowed Maryland National to build up a huge amount of unpaid forfeited bail bonds.

"The system can work," says Garrison. "It worked before and we are developing new, improved procedures that will assure it will work even better in the future."

HIS OPPONENTS SAY THEY doubt it.

Connick, a former assistant U.S. attorney, says the present bail bond mess "is the product of incompetence in

(Turn to Page 6, Column 1)

Continued from Page 1

the DA's office. Effective control and concern are absent."

He says Garrison's assistants are now tied up in federal court trying to collect forfeited bail bonds when they should be in Criminal District Court prosecuting criminals.

Connick says: "The DA should recommend to the criminal court a bond which takes into account the criminal propensities, habits and criminal record of the defendant.

"It is evident that the many missing defendants are poor bond risks. Their bonds should have been higher than those set.

"WHEN A DEFENDANT FAILS to appear as directed, action should follow immediately which will bring about forfeiture of his bond.

"Once forfeiture is effected, the money should be collected on a case by case basis. This can only be accomplished by diligent work practices.

"A constant check must be maintained to determine what bonding companies are writing the bonds. Once the amount of bonds forfeited approaches the amount on deposit with the State Treasurer, that company should no longer be allowed to write bail bonds if there is any indication that the company is or may be insolvent."

Connick also favors having regular periodic checks of bail bond forfeitures and collections by the city auditor as an outside control to assure no bail bond company piles up a huge backlog of forfeitures.

WARD, FORMER FIRST assistant to Garrison who is now running against his former boss, calls the bail bond business "an unfortunate hangover from the feudal days of criminal law."

He says that where once bondsmen knew their clients and their clients' families, "we have today an impersonal, corporate being for the bondsman.

"The corporation knows nothing of the accused, his family or friends. The relationship is solely a business one."

The result of the system, Ward says, is that a person accused of a minor offense remains in jail if he hasn't the money for bail while a hardened criminal can go free if he can pay the bondsman's premium."

WARD SAYS HE FAVORS increased emphasis on a release-on-recognizance system that frees people accused of minor crimes without bail until their trial. He said such people usually appear for trial.

For others, he favors increased use of property bonds. The accused person places a mortgage on his property or on the property of a person who is to be his bondsman.

"These bonds do not have to be great in amount," says Ward. "There should be a substantial reduction from the amount of bonds set today."

Ward also feels that in cases such as armed robberies bond should be very high or there should be no bond allowed at all where the previous record of the accused person makes it seem a risky proposition that he will show up for trial.

WARD ARGUES THAT A lesser reliance on bail bond companies "would remove the profit motive from the daily business of the Criminal Courts."

Scaccia, a former assistant district attorney, says that "90 per cent of the problem is the failure of the district attorney to set reasonable bonds."

He says the DA's office has become a vast machine trying to prosecute every case brought to it. The result of trying to do everything he says, are bonds too low for hardened criminals and too high for noncriminals who find themselves involved with the law for the first time.

Scaccia also believes Criminal Court judges must accept responsibility for what he calls "the failure of the committing magistrate and release-on-recognizance programs." Both program are intended to release accused persons without bail where there is a good possibility they will show up for trial.

"BOTH PROGRAMS SPRING from good ideas but they're hardly used at present," he says.

Scaccia says he believes the role of bail bondsmen should be limited by new procedures that would release persons accused of minor crimes without bail while reserving higher bail for those accused of serious crimes.

"The whole problem is in administration," he says. "The judges and the DA's office are afraid to make a decision about release-on-recognizance because they're afraid of making an error."

BEYOND THE CANDIDATES there are other voices calling for a lesser reliance on the bail bond system.

Aaron Kohn, executive director of the Metropolitan Crime Commission; Fred Blanche, director of the Louisiana Chapter of the American Civil Liberties Union, and Bernard Burk, vice-president of the Criminal Courts Bar Association, all agree there should be greater reliance on a committing magistrate system where defendants are divided into two categories—those who are likely to appear for trial and can be released and those who are bad risks.

Similrly, the report by the President's Commission on Law Enforcement and the Administration of Justice recommends:

"BAIL PROJECTS SHOULD be undertaken at the state, county and local levels to furnish judicial officers with sufficient information to permit pretrial release without financial condition of all but that small portion of defendants who present a high risk of flight or dangerous acts prior to trial."

Says Kohn: "If it were possible to carry out such a recommendation, there would be a dual effect.

"One result would be the end of the odious bail bond system which is a blight on criminal justice.

"The second would be an opportunity to speed up the entire judicial process by assuring far more effectively than at present that defendants will be present for trial."

(Last article in a series of three.)