

## **FEDERAL DEFENDER DETENTION HEARING**

**RELEASE OR DETENTION?** There may be a hearing to determine whether you should be released until your trial date. The magistrate judge will decide if you should be released, with or without bail, or kept in jail. This hearing may take place at your initial appearance, or within 5 court days after that if your attorney needs more time to prepare.

**PRETRIAL SERVICES REPORT:** Before your first court appearance, a Pretrial Services Officer may want to speak to you. This person works for the court. He or she gathers information about your background and personal circumstances, writes a report for the judge, and makes a recommendation about whether or not you should be released and on what conditions. Remember that the Pretrial Services Officer works for the court, not for your lawyer. **IT IS YOUR CHOICE WHETHER TO BE INTERVIEWED, BUT YOU SHOULD DISCUSS THIS DECISION WITH YOUR LAWYER FIRST.** If a Pretrial Services Officer asks to talk to you before you have seen your lawyer, tell the Officer that you want to speak to your lawyer before you decide what to do. If you agree to an interview, be honest. You can refuse to answer any question, but any answer you do give must be the truth. Lying to a Pretrial Services Officer can be used against you at sentencing if you are later convicted, and is also a crime. Your lawyer will help you decide whether to be interviewed and what to discuss.

**FACTORS THE JUDGE WILL CONSIDER:** In deciding whether to release you, the judge will consider factors such as your prior record, ties to the community, any prior failures to appear for court, and employment. In general, the law says that the judge can only keep you in jail if there is evidence that you are a danger to the community, or a flight risk. However, certain drug related charges and crimes of violence carry what is called a “presumption of detention.” If you are charged with one of these crimes, the judge will keep you in jail until your trial date unless you and your attorney can convince the judge that you should be released.

**PREPARING FOR THE HEARING:** Your lawyer will need a lot of information about your family, job, financial situation, and background. An investigator may also help prepare for the hearing. They may need to speak with people who know you well, and identify property that could be used to secure a bond. Sometimes witnesses are needed at the hearing, but this is not always the case. Your lawyer will explain the best way to handle your hearing, depending on your circumstances.

**BAIL:** Bail is not automatically set for federal defendants. Also, bail bondsmen usually will not secure bail in federal court. (If you already know a bail bondsman, however, ask him to make an exception in your case.) If the judge decides to let you post bond, you may be required to post cash or property, surrender your passport, and comply with restrictions on travel or residence. In serious felony cases, such as those involving drugs or guns, most defendants who get out post real estate as security for their bail. This process can take 10 days or more.

If you are released, the judge will set conditions that you must follow until your case is over, such as drug testing or living at a certain place. You must attend all your court appearances or get permission from the court in advance for your lawyer to appear without you. Also, you cannot commit any local, state or federal crimes while on pretrial release. A Pretrial Services Officer will probably supervise you while you are out on bail. If you violate the conditions of your release, you can go back to jail. Some violations can also result in a longer sentence if you are convicted later.

**CONTINUED DETENTION:** If the judge decides not to release you before your trial, you will be in the custody of the United States Marshal. Your attorney has no control over the selection of the jail in which you are held.

If something about your circumstances changes, your attorney can go back to court and ask the judge to reconsider releasing you.