

# What do you do when your phone rings in the middle of the night and your client is calling from jail?



*By Rudy Loewenstein*

If you're not a criminal defense lawyer like I am, you might start sweating and consider ignoring it. But, then you think, what if it's my really good client and he needs help? If I don't pick up the phone, then I'm not there for him. If you pick up the phone you might not have a clue what to say to help him and both of you will be in trouble. Looking stupid would be even worse than acting like you are sorry that you missed his call in his moment of need. Well, this brief article will answer the few questions you'll need to help him in that

short but critical call.

When you get that call from jail in the middle of the night, the person in jail is in critical need of an informed answer and an action plan that will protect his rights and get him out as fast as possible. The first thing you need to do is stay calm. He's in jail and has reached out to you, his lawyer for all reasons and all seasons, for help and reassurance. The first question you ask him should be which jail is he in? You might think it has to be Orange County Central Jail in Santa Ana. But, in fact, he could be in one of the many municipal jails instead of County Jail. Some jails will answer an attorney's call following

up on the client's call for assistance. The jailer can give you the charges, the bail amount, and tell you whether or not the client is on his way to Central Jail or if there is quick action you can take to bail him out before he is taken into the most unpleasant environment he is ever going to experience, OCJ.

The second thing you need to know is that the call is being recorded and the facts of what occurred should not be discussed over the phone. Simply finding out from the client what he has been arrested for will give you a working knowledge of what to do next. It is possible for you to call the Detention Release Officer (DRO)

at OCJ, advise him that you have been retained by the client and ask the DRO if the DRO will agree to release the client on a written promise to appear (a release on one's own recognizance or OR) in court on a date and time the DRO chooses. It's mandatory you state to the DRO that you have been retained in order for the DRO to speak to you and for the DRO to potentially release the client. The DRO can call the outlying jails, speak to the jailers/officers who arrested the client, and either set bail at a lower figure or release the client outright on his OR. In order to convince the DRO to release your client, you need to know something about the client's past criminal conduct, connection to the community, and who will support him in his requirement to come to court. These folks are people who are close to the client such as significant others, children or co-workers. So in the call ask the client – if you don't already know – if he's ever been arrested before and how closely connected to the community he is. For

example, if the client is employed locally, owns a home in Orange County, and has children in school, he isn't likely to flee the jurisdiction, thus providing you with ammunition to convince the DRO that he's a good candidate for low bail or an OR.

I know you may not want to commit to being retained for a client on a criminal case when you make the call to the DRO, but you aren't putting yourself out there for a case long commitment in an area of law you know very little to nothing about. It's not like you have to notify your malpractice carrier as soon as you hang up from the DRO. As long as you show up at the first court date with the client (you'll get the date and location from the DRO if he agrees to release your client OR) or the client retains someone else (like me for instance) you will have fulfilled your obligation to the client and the court. No judge will force you to continue to represent the client after the arraignment (first appearance in court). For example, once the client is released on an OR he will un-

doubtedly call you to thank you profusely for saving him, being there for him in his time of need, and to get a referral to someone who is an expert in criminal defense.

If all this sounds complicated, well, it can be. But, the whole reason you pick up the phone when you see it's from jail is that you know if you don't, that client isn't going to be helped, and isn't going to believe that you are there for him no matter what he needs. And being there for our clients, prepared and ready to step in to assist, is why they hire us and look to us for help even if it's in an area of law in which we aren't familiar. Of course, the easiest thing for you to do is to get the basic information from the client and call a criminal attorney you know and trust to assist your client from here.

But, being that you want to follow through on your own and you love the challenge, the next thing you can do is to call a bail bondsman. You'll need a referral to a reputable one, and no, that's not an oxymoron, which is just another reason

The advertisement features a large graphic with two circular cutouts. The left cutout is blue and shows a collage of images including a car, a building, and a plane, with the word 'ADVANCED' written across it. The right cutout is green and shows a collage of images including a man in a suit, a building, and a plane, with the word 'DEPOSITIONS' written across it. Below the graphic is the company logo, which consists of the letters 'AD' in a stylized font, followed by the words 'advanced' and 'depositions' in a sans-serif font. To the right of the logo is the company's phone number, website, email addresses, and physical address.

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why you should call me and refer the case to me. But, since you read this article to this point and you are now prepared for that call by having put the bondsman's name and number in your cell, you call the bondsman and give him the client's name and location. The bondsman will call you back and tell you what the bail is and discuss what he'll need to bail the client out. This is where you'll need to know who to call to make sure the bail will be paid for by the client's community connections (significant other, family, or friends). Putting the bondsman together with the folks who will pay for the bond will effectively end your involvement for the night. The bondsman will work to get the bond posted which will result in the client being released from jail in between four and twelve hours later. Oh yes, no matter what, it's going to take at least that long to get the client out.

Just like any area of the law, if you know what you're doing or are prepared in advance, good results aren't guaranteed but sure are more likely. Take the call, get the necessary information, be a hero and be there in your client's hour of need. He'll be forever grateful and you'll have a client and referral source for life.



*Rudy Loewenstein is a Certified Specialist in Criminal Law practicing in Orange County for over 37 years. He has appeared on Dateline, KFI, Channel 7, and can be reached at 714-809-5513.*