

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Commissioner Steven Meiner  
DATE: June 22, 2022

SUBJECT: REFERRAL TO THE PUBLIC SAFETY AND NEIGHBORHOOD QUALITY OF LIFE COMMITTEE TO DISCUSS THE REVOCATION OF PRETRIAL RELEASE, AND COURT-ORDERED PRETRIAL DETENTION, FOR THOSE DEFENDANTS VIOLATING THEIR CONDITIONS OF RELEASE BASED UPON THE COURT FINDING PROBABLE CAUSE TO BELIEVE THAT SUCH DEFENDANTS COMMITTED NEW LAW VIOLATION(S) WHILE OUT OF CUSTODY ON PRETRIAL CONDITIONS OF RELEASE, AND TO FURTHER DISCUSS THE UTILIZATION OF STAY AWAY ORDERS FOR THOSE REPEAT AND/OR VIOLENT OFFENDERS COMMITTING CRIMINAL OFFENSES WITHIN THE CITY OF MIAMI BEACH.

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### **ANALYSIS**

Please place on the June 22, 2022 City Commission agenda a referral to the Public Safety and Neighborhood Quality of Life Committee to discuss the revocation of pretrial release, and Court-ordered pretrial detention, for those defendants violating their conditions of release based upon the Court finding probable cause to believe that such defendants committed new law violation(s) while out of custody on pretrial conditions of release, and to further discuss the utilization of stay away orders for those repeat and/or violent offenders committing criminal offenses within the City of Miami Beach.

Once arrested for a criminal offense, defendants (assuming the case isn't nolle prossed, dismissed, or plead out) are either held in custody, get a set bond amount, or are released on their own recognizance. In County Court, particularly since the onset of Covid-19, defendants are primarily released on their own recognizance. However, Florida Statute 903.0471 provides that a court may, on its own motion, revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release. In practice, the judges are routinely notified of such new law violation(s) either by the court clerk or the prosecutor, however, whether the judge chooses to revoke pretrial release and order pretrial detention (or impose a bond) is within the discretion of the court, and often depends on the nature and degree of the new, and underlying, criminal offenses.

Moreover, stay away orders are a useful tool to prevent repeat and/or violent offenders from contacting their victim(s) and/or keeping such offenders from the entity or location where the criminal offense was committed. However, a fairly recent court-ruling has held that, absent specific statutory authorization, standalone stay away orders may not be legally imposed upon a defendant once their case is closed. Nonetheless, stay away orders may still be utilized, when appropriate, as a condition of a defendant's pretrial release, or as part of any period of probation.

Accordingly, I would request that the City Attorney's Office and Police Department be prepared to address the present status and utilization of stay away orders and the courts' revocation of pretrial release at Committee.

If you have any questions about this item, please contact my legislative aide Robert Novo III at [RobertNovo@miamibeachfl.gov](mailto:RobertNovo@miamibeachfl.gov).

**SUPPORTING SURVEY DATA**

N/A

**FINANCIAL INFORMATION**

N/A

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

Yes

**Does this item utilize G.O. Bond Funds?**

No

**Legislative Tracking**

Commissioner Steven Meiner