

POLICY AND PROCEDURES

NUMBER: 1421

SUBJECT: Bonds

ACA STANDARDS: None

ACTING DIRECTOR: *Julia Childrey*

EFFECTIVE DATE: 9/97

REVISION DATE: 12/05, 7/08, 10/09
11/13, 12/14, 12/18



I. POLICY

The St. Louis County Department of Justice Services shall provide a procedure for the efficient operation of bonding/release of subjects held in the Department's custody. The rules for releasing subjects with criminal charges on bond from the Department are governed by Supreme Court Rules of Missouri 33.01 - 33.20.

II. RESPONSIBILITIES

All St. Louis County Department of Justice Services' Bonding Specialists, Social Services staff and all Intake Service Center staff are responsible for the following procedures.

III. DEFINITIONS

Bond Categories:

1. Standard Bond
2. Appearance Bond
3. Appeal Bond

Bond Types:

1. Recognizance Bond (ROR)
2. Cash Bond

3. Ten Percent (10%) Bond
4. Professional Bond
5. Property Bond

IV. PROCEDURES

A. General Information

1. Bonds are classified by Category and Type.
2. Any of the three categories of bonds may be posted with any of the five types of bonds, as long as there is approval from the court of jurisdiction. For example, an Appeal Bond can be made with property as long as the judge authorizes it as such.
3. Court Orders, memos and other official documents from the court must be stamped with the date and time received by the Intake staff. An electronic date/time stamp is located at the Bonding Window.

B. Bond Categories

1. **Standard Bond:** A bond posted to secure the release of an incarcerated subject pending judicial disposition. A judge's authorization is not required to post bond in this category, (i.e., Recognizance, Cash, Ten Percent, Professional and Property Bonds).
2. **Appearance Bond:** A bond posted to secure the release of a subject detained on a suspect charge or as otherwise directed by a judge.
 - a. Appearance Bonds are made with the permission of a Circuit or Associate Circuit judge.
 - b. Appearance Bonds are applicable to subjects held twenty (20) or twenty-four (24) hours on a suspect charge, whether at the Intake Service Center, a municipality or a fugitive hold from another jurisdiction.
 - c. Intake Officers will not suggest to a subject or his family that an Appearance Bond be attempted. However, if a

subject, his attorney, or a member of the public requests an Appearance Bond on an eligible subject, we are obligated to contact the duty clerk or judge.

- d.** Prior to calling the duty clerk or judge to request an Appearance Bond, the Bonding Specialist will conduct a computer check in order to obtain the following information:

 - (1) All charges on which the subject is currently held. If no record of arrest has been entered into REJIS, the municipality must be called to verify all charges.
 - (2) All fugitive holds against the subject and the charges on which such holds are based.
 - (3) Prior criminal record, including judicial dispositions that may be available.
- e.** This information will assist the clerk or judge in determining appropriate Appearance Bond Amount.
- f.** It is not necessary for a person posting the bond to come to the Bonding Office and demonstrate the ability to post bond before calling the duty clerk or judge. The request for an Appearance Bond is sufficient reason to make the call.
- g.** When the clerk or judge sets an Appearance Bond, be sure to ask for a court date. Some judges set the court date for the next working day, so do not use the court calendar unless the clerk or judge suggests it.
- h.** An Appearance Bond form will be completed in triplicate. (See Attachment #7) When the subject is held at a municipality, the surety must take the bond to the municipality, obtain the subject's signature, and return the white and yellow copies to the Bonding Office. The pink copy is left with the municipality. Once the bond has been returned with the signature, the Bonding Specialist will call the municipality and authorize the subject's release.
- i.** When an Appearance Bond is posted, the subject will be released, even if he/she is wanted by other agencies.
- j.** The Intake Shift Supervisor is responsible for insuring that teletypes are sent to all such agencies. The teletypes shall

inform them of when and where the subject is to appear in court.

k. If the subject is held on a St. Louis County hold, the pink copy of the bond will be forwarded to the County Fugitive Warrant Office. St. Louis County Police Communications or the St. Louis County Police Detective Bureau will then be notified of the release.

l. Like all categories of bonds, the Appearance Bond may be cash, professional, property, and if authorized by the court, ten percent or recognizance.

3. Appeal Bond: The bond posted to secure the release of a subject pending appeal of a sentence or judgment to a higher court. Many times these subjects are held in the Missouri Department of Corrections.

a. Appeal Bonds are prepared in triplicate, using the form for the appropriate level of adjudication, (either Associate Circuit Court or Circuit Court). (See Attachment #8)

b. Circuit Court Appeal Bonds require the signature of the sentencing judge. For this reason, Appeal Bonds are usually prepared during the normal business hours. The Bonding Supervisor will normally be available to assist in the preparation of these bonds.

c. Any bond type approved by the court is applicable. The type and amount is set by a memo issued by the sentencing judge.

4. Multiple Bond: Any combination of a cash bond, property bond or professional bond posted to secure the release of an incarcerated individual pending judicial disposition. These bonds are usually combined to satisfy a bond amount when one form of bond is insufficient to satisfy the bond amount. (See Attachment #6)

C. Bond Types

1. Recognizance (ROR): The release of a subject in return for his/her signed promise to appear in court; no money is involved. (See Attachment #3)

- a. Recognizance Bonds may be prepared by the Classification staff or by an Intake Officer at the direction of the Intake Supervisor.
 - b. Guidelines for granting Recognizance Bonds are detailed in the Intake Social Services Procedure Manual.
2. Cash Bond: The deposit of the full amount of the bond in cash with the court.
- a. NO PERSONAL CHECKS (OR BUSINESS CHECKS) will be accepted for bond.
 - b. The only acceptable alternatives to cash are:
 - (1) Cashier's check
 - (2) Traveler's check (proper ID must be shown)
 - (3) Money order.
 - c. All of the above instruments should be made payable to The Department of Justice Services.
 - d. Cash Bonds are prepared in triplicate. One (1) copy will be stamped "Defendants Copy" and the other two (2) copies are for the court. (See Attachment #1)
 - e. A separate bond must be produced for each warrant, on state cases
- NOTE:** One warrant or cause number may have several counts and these may be placed on one bond. Each different cause number must have its own bond form.
- f. Money is collected and a receipt is prepared for each cause number. A receipt will not be issued until the funds have been collected.
 - g. The Bonding Specialist may not put different cause numbers on the same receipt, as this will hinder the return of the money to the defendant if all cases are not disposed of at the same time.

- (1) For Satellite courts only, a maximum of four (4) different cause numbers may be placed on the same bond and receipt.

h. The receipt is prepared in duplicate:

- (1) One (1) copy goes to the defendant, stamped 'Defendant's Copy' with emphasis placed on the importance of the receipt. The Bonding Specialist should stress the value of the receipt as the means by which the money is returned after the case has been disposed of.
- (2) The other copy goes to the party that posted the bond at the Bonding Window.

NOTE: If the defendant posts his/her own bond, only one (1) is given to the defendant.

i. When making Cash Bonds of Ten Thousand Dollars (\$10,000.00) or more on drug related cases, the Bonding Specialist shall:

- (1) Obtain picture identification and make a photocopy of the person making the bond.
- (2) Staple a copy of the picture identification to the bond form to serve as notice to the Circuit Clerk's Office.

3. Ten Percent Cash Bond: The deposit of ten percent of the amount of the bond with the court.

a. Ten percent cash bonds must be approved by the court for class A and B felonies, if applicable.

[b.] Ten percent cash bonds for class C felonies when the bond is set at \$15,000 or less, class D or E felonies, or defendants charged with misdemeanors, are automatically authorized. This includes all probation revocations where the underlying charge was a C, D, or E felony and the bond is set at \$15,000 or less. The following exceptions apply:

- (1) Offenses for which the Judge who set the bond has provided that no 10% cash bond is authorized

- (2) *Felony offenses filed under Chapter 566 (Sexual Offenses), including attempts to commit such felony offenses.*
- (3) *Felony offenses filed under Chapter 568 (Offenses Against the Family), including attempts to commit such felony offenses*
- (4) *Felony offenses filed under Chapter 573 (Pornography), including attempts to commit such felony offenses*
- (5) *Felony offenses filed under Chapter 589 (Sex Offender Registration Offenses)*
- (6) *Any domestic violence offense*
- (7) *Cases involving fugitives or defendants who reside outside the State of Missouri.]*
- (8) Violation of Ex-parte/Restraining Orders.

c. The court's approval is preferably by memo with a proper court seal. However, occasionally a telephone call from a judge or court clerk is acceptable, but the call must be properly verified for authenticity. The staff will inform the judge that he/she needs to verify the call and then call the judge using the list of phone numbers the Department uses for this situation.

d. Ten Percent Cash Bonds are prepared in the same fashion as Cash Bonds with one exception:

- (1) In order to indicate that ten percent was posted, the following statement must appear in the remarks on the bond form: "\$ amount as 10% of total bond amount". See example bonds at the end of this section. (See Attachment #2)

4. **Professional Bond:** A bond executed by a person doing business as an agent of an insurance company or on his own behalf, to secure the release of an arrested individual, usually in return for a non-refundable fee based on ten percent of the total bond. (See Attachment #5)

- a. Professional Bonds are accepted only from bondsmen who have been qualified by the State of Missouri according to Missouri Revised Statute 374.759.
- b. An annual list will be prepared on all bondsmen who are qualified and will be posted at the Bonding Window. Any bondsmen not appearing on the list for the current year will not be allowed to post a Professional Bond and will be referred to the Bonding Supervisor. If the bondsman has not yet been qualified, the Intake Service Center Manager/Bonding Supervisor will ensure information is gathered and a record check will be conducted. If the bondsman is qualified the bondsman name will be added to the qualified list.
- c. The Intake Service Center Manager/Bonding Supervisor are responsible for ensuring the following occurs on an annual basis:
 - (1) Pedigree information on all bondsmen will be gathered. This will be accomplished by letter and/or by requesting the information from the bondsmen at the Bonding Window
 - (2) A record check will be made on all bondsmen, using the pedigree information
 - (3) Conduct further investigation on record checks, as necessary, with the courts, circuit clerk's office, etc.

to determine if an arrest definitely resulted in a felony conviction
 - (4) Notify the State Department of Insurance if it is discovered that a bondsman has a felony conviction
 - (5) Notify the bondsman, in writing, if a felony conviction is discovered and that he/she is no longer qualified to make bonds
 - (6) New record checks will be conducted on an annual basis to check for felony convictions.
- d. Also, any bondsman for whom a judgment has been declared will be disqualified until the judgment has been

cleared with the court. The Bonding Supervisor will post a disqualification memo whenever this occurs.

- e. Professional Bonds are prepared in two (2) parts.
 - (1) Part one is the bond form (it is the same form used in all regular bonds). (See Attachment #5)
 - (2) Part two is a "Special Affidavit of Qualification". (See Attachment #5) On this form, the bondsman must sign and indicate the amount paid or promised by the subject as a fee for services rendered.
 - (a) Any bondsman acting as an agent of an insurance company must provide a "Power of Attorney" (power) which the Bonding/Records Clerk staples to the special affidavit.
 - (b) The maximum amount for which the bondsman has authorization will be printed on the "Power of Attorney". This amount cannot be exceeded.
 - (c) No bondsman can use two (2) "Powers" for one (1) charge. However, two or more bondsmen may combine their "Powers" to post a bond. For example, a \$10,000.00 bond can be made by two different bondsmen, each with a \$5,000.00 "Power of Attorney". However, the two "Powers" must be issued by different surety companies.
- f. In addition, a "Power of Attorney" must be provided for each bond. That is, if a subject has four (4) different bonds, the bondsman must use four (4) separate "Powers", even if the dollar amount indicated on one (1) "Power" exceeds the total of the four (4) bonds.
- g. If a bondsman represents himself and not an insurance company, then a "Power of Attorney" is not required. These bondsmen generally sign on real estate property that has been qualified at the beginning of the month by the Bonding Supervisor. The Bonding Supervisor is responsible for monitoring the total amount of bonds posted

to ensure the bondsmen do not exceed the value of real estate equity.

- h.** Under no circumstances will any employee of the Department of Justice Services recommend a particular bondsman or surety company to anyone inquiring about a Professional Bond. The Bonding Specialist will provide a copy of the qualified bondsmen list to anyone making an inquiry. If a telephone inquiry is made, that person should be directed to the Yellow Pages under the heading "Bail Bonds".
 - i.** If a bondsman calls the Intake Service Center asking to speak to a certain arrested subject, the bondsman's phone number will be obtained and given to the subject in order to return the call.
 - j.** Bondsmen are not to be provided with the telephone numbers inside the prisoner waiting area, nor are calls from bondsmen to be transferred to this area. Bondsmen are not allowed anywhere inside the jail or the Intake Service Center without expressed consent of the Intake Manager or Bonding Supervisor.
 - k.** No bondsman is to be provided with any service or privilege not available to all other bondsmen; nor are any staff to accept any gratuity or gift from a bondsman.
- 5. Property Bond:** The deposit with the Court of real estate by a private citizen wishing to obtain the release of an arrested subject.
- a.** Property Bonds are prepared in three (3) parts:

 - (1) The first part is the bond form prepared in triplicate. (See Attachment #4)
 - (2) Part two is the "Special Affidavit of Qualification" also prepared in triplicate. (See Attachment #4) This indicates whether the property owner is being compensated for assisting the arrested subject. The answer must always be "no". If the party were to accept any compensation, he/she would be considered a professional bondsman and would require a state license.

- (3) Part three is the "General Qualification" form. (See Attachment #4) This is an important affidavit which determines the value of the real estate being used to guarantee the appearance of the defendant. The Bonding Specialist will retrieve information from the real estate property tax receipt and ask appropriate questions in order to complete the "General Qualification" form.
- b.** Bonding Specialist will ensure that special attention is given to the following when filling out the "General Affidavit":
- (1) The legal description of the property will be exactly as it appears on the real estate tax receipt, including the locator number if available.
 - (2) The description of improvements is a description of the house or other buildings on the property. For example, "3 bedroom brick home with attached garage", or "two family flat with basement".
 - (3) The assessed value is indicated on the tax receipt and is sometimes listed as "total valuation".
 - (4) "Encumbrances" refers to any and all liens, mortgages, and other claims against the property.
 - (5) The description of personal property is not used and will always read "N/A".
 - (6) Any undischarged bail bonds against the property or against other properties owned by the surety must be recorded. If, for example, one (1) property is used to post bond on two (2) co-defendants, the affidavit attached to the bond of defendant 'A' will reflect the case against defendant 'B' and vice versa.
- c.** The figures are entered automatically and calculated on the automated General Affidavit of Qualification Surety Bond form to determine bondable equity. This formula is discussed later in this section.
- d.** In order to post a Property Bond the surety must bring the following documents to the bonding window:

- (1) A current real estate tax receipt for the property to be used as security (this can be obtained from the tax office in the county where the property is located).
- (2) A statement from the lending institution indicating the current mortgage balance. A payment book or amortization schedule which has this information will suffice. The "Deed of Trust" or "Deed of Release" must be shown if the property is paid in full. (NOTE: Not the "General Warrant Deed")
- (3) All owners of the property must be present. If a person named on the tax receipt is deceased, a copy of the death certificate is required. If a person named on the tax receipt has relinquished the property by divorce, a "Quit Claim Deed" is required. If a person named on the receipt is unable to physically appear at the Bonding Office due to illness or hospitalization, a person bearing a notarized "Power of Attorney" may represent the property owner. The "Power of Attorney" or a photocopy must be retained by the Bonding Specialist and attached to the qualifier.

e. The Intake Shift Supervisor may use discretion in granting exceptions to the above stated rules if special circumstances exist. However, the current paid tax receipt will always be required.

f. The following is the Bondable Equity Formula used to determine the value of equity in property.

- | | | |
|-----|---------------------------|-----------------|
| (1) | Assessed Valuation | _____ |
| (2) | Divided by .19 | _____ |
| (3) | Minus Homestead Exemption | <u>\$15,000</u> |
| (4) | Minus Mortgage Balance | _____ |
| (5) | Minus other Bonds Pending | _____ |
| | Against Property | |
| (6) | Equals Bondable Equity | _____ |

Example: The property owner presents a tax receipt with an assessed valuation of \$8,420.00, and a mortgage statement indicating a current balance of \$17,000.00.

(1)	Assessed Valuation	\$8,420.00
(2)	\$8,420.00 divided by .19	\$44,315.00
(3)	Minus Homestead Exemption	-\$15,000.00
(4)	Equals	\$29,315.00
(5)	Minus Mortgage Balance	-\$17,000.00
(6)	Equals Bondable Equity	\$12,315.00

- g.** The property owner claims he has no one currently out on bond on the property, therefore he can post bond up to \$12,315.00.
- h.** A judge may approve a piece of property regardless of bondable equity. This is known as a Surety Property Bond. a memo from the court authorizing a Surety Property Bond is preferred, although a telephone call from the judge or his clerk is acceptable.
- i.** Bonding Specialist are reminded to verify the authenticity of such calls and in the case of Surety Bonds, the paid real estate tax receipt is the only document required. Generally, the Bonding Clerk will not call the court to request surety approval. When someone's property has insufficient equity they should be referred to their attorney.
- j.** Real property located anywhere in the State of Missouri is acceptable for bond. This does not include house trailers, house boats or any automobiles, etc. Bonding Specialist are reminded of the need for care and accuracy when deciphering tax receipts that are unfamiliar such as out-of-county receipts.
- k.** Property owners may combine their properties in order to make one bond. A separate bond and qualifier is required for each piece of property. (See Sample Property Bond at the end of this section)

- I. Property Bond receipts are created in the IJMS as a reminder of the court date and the time. These receipts are also used as a tracking device.

D. Bonds for Other Agencies

1. The Bonding Specialist will often be required to make bonds on subjects who are wanted by St. Louis City or from another county. The information pertaining to the bond must be obtained by calling the agency who holds the warrant.
2. When calling other agencies, the Bonding Specialist will identify himself/herself and the reason for calling. The Bonding/Records Clerk will obtain the following:
 - a. Charge and cause number
 - b. Bond amount and return court date
 - c. Judge and division
 - d. Time the defendant is expected to appear
 - e. Which type of bonds are acceptable
 - f. Address in which individual is to appear.
3. If there are any questions concerning agencies for which the department accepts bonds, the Shift Supervisor should be contacted. Generally, bonds are made for St. Louis City and counties outside of St. Louis County, and some municipalities in St. Louis County (these are departments who contract with St Louis County to hold their warrants).

E. Bond Fees

1. County Ordinance 606.187 establishes a fee for all prepared bonds and for providing duplicate receipts. The most current approved fee will be collected at the time the bond is posted or when a duplicate receipt is requested.

F. Fine and Cost (FAC)

1. Fine and Costs are approved by the court, usually by memo.

2. Occasionally a Corrections Case Manager will telephone the courts and have a "FAC" assessed. This normally means that the defendant wishes to plead guilty to the charge and must pay the fine. In this situation the money is collected and a FAC receipt is printed. No bond papers are prepared because it is not necessary for the subject to return for a court date. (See Attachment #9).

G. Receipts

1. Receipts are always prepared in duplicate. It is important for the Bonding Specialist to be accurate when entering amounts. A receipt will not be issued until the funds have been collected.
2. Receipts are always completed with the defendant's name, not the name of the surety. It is imperative that the Bonding Specialist ensure that the court information on the receipt is correct. The Bonding Specialist should also give the court information to the person posting the bond.

H. Court Dates

1. Court dates are assigned several ways:
 - a. If the subject has been in custody for a period of time and has been going to court on a case, a court date will usually be entered in the IJMS. This date was assigned by the court and by all means should be the date given.
 - b. When a subject is released per a memo, (e.g., a 10% or surety property) a court date will normally appear on the memo.
 - c. If a subject is newly arrested, a court calendar is provided with a list of available dates. The Bonding Specialist must use extreme care when assigning dates, making sure that the case is assigned properly as criminal or traffic.
 - d. If the bond is prepared for another agency, the date will be assigned by that department, either by telephone or teletype. At times, a case will have been bound over from the Associate Circuit Court to the Circuit Court.
 - e. If no court date is indicated, an "on call" court date should be placed on the bond and receipt.

2. If a question ever arises concerning which court date to assign, the Shift Supervisor will be consulted.