

The Bail Decision & Conditions of Bond

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1

Resources

- TJCTC Website
 - Magistration Deskbook, Magistration Bench Cards, Modules
 - Bail page (www.tjctc.org/bail)
- www.txcourts.gov/programs-services/public-safety-report-system/
- bail@txcourts.gov (OCA email for system/setup questions)
- Automon
 - 480-368-8555 option 2, support@automon.com
 - <https://help.automon.com/psrs/Content/using-help-center.htm>

2

2

The Article 15.17 Hearing

- Probable cause has now been established, either by a magistrate who issued the arrest warrant, or by a magistrate after a warrantless arrest.
- The next step is for the magistrate to inform the defendant of the offense they have been charged with and what rights they have.
 - These rights are listed in Art. 15.17 of the CCP, and so this hearing is often called an “**Art. 15.17 hearing.**”

3

Who Informs the Defendant of Their Rights?

- Any magistrate in the county where the person was arrested.
- If necessary to provide the information more quickly, **any magistrate** in the state of Texas may inform the accused of their rights.

4

When Must the Defendant be Informed of Their Rights?

- **Without unnecessary delay**, but no later than **48 hours** after arrest.
- Many counties have a “no later than **24 hours** after arrest” **policy** due to the requirements triggered in certain cases if no determination of probable cause occurs within 24 hours of arrest (discussed later in this class).

5

How is the Defendant Informed of Their Rights?

- The arrested person may be taken before the magistrate **in person** or the magistrate may hold the hearing by **videoconference**.
- Videoconference, or “**video magistration**” **must** have two-way video **and** two-way audio to be acceptable.
 - Payment for video magistration equipment may be authorized from the justice court technology fund
 - Art. 102.0173, Code of Criminal Procedure

6

Interpreter Issues

- If the person does not speak and understand the English language or is deaf, the magistrate **must** inform the person of their rights in a manner consistent with Articles 38.30 and 38.31.
 - Article 38.30 deals with the appointment of an interpreter when they do not understand the English language.
 - Article 38.31 deals with appointment of interpreters for the deaf.
- See the TJCTC module on Interpreters for more information on interpreters during magistration.

7

Making Sure They Understand

- It is **critical** that the defendant understands the rights that you are reading to them. Ways to ensure this, beyond having interpreters:
 - Have the defendant check off each right as you read them off, signaling that they understand.
 - Explain legal terms in regular everyday language.
 - **Slow down**. You are explaining rights, not giving a monologue. No bonus points for speeding through it. It may be your 1000th time to say it, but their first time to hear it.

8

Breakout Discussion

- You are called to magistrate a defendant who was arrested for DWI and provided a blood sample with a 0.25 BAC (0.08 is the legal limit, so they are more than 3x the legal limit).
- The defendant is very unsteady, swaying, and appears to be dozing as you read them their rights.
- What would you do in this situation?

9

Consular Notification

- If someone is arrested who is a **foreign national**, meaning a citizen of a country other than the United States, they have a **right** to have their country's **consulate** notified.
- Also, some countries are identified as "**mandatory reporting countries.**" When a citizen of a mandatory reporting country is arrested, the consulate of their country **must** be notified, regardless of the wishes of the arrested person.

10

What is a Consulate?

- Just as the United States has a presence via **embassies** and **consulates** in other countries, other countries' governments have a presence in the United States.
- **Consulates** are offices which contain officials of a foreign government who are accredited by the U.S. Department of State and are authorized to provide assistance on behalf of that government to that government's citizens in another country.

11

U.S. State Department Guide

- The list of mandatory reporting countries, and lots more information on consular notification, including how to contact the consulate, is in the guide available at the link in the Magistration Deskbook in Chapter 2.
- See Magistration Bench Card 2

12

Consular Notification Process

The correct process:

1. Ask each and every person you magistrate if they are a United States citizen. Do **not** make assumptions based on factors such as name or appearance!
2. If they are **not** a U.S. citizen, determine what country the person is from.
3. Determine if that country is a **mandatory reporting country**.
4. If they **are** from a mandatory reporting country, take the necessary steps to notify the consulate of that country (see the Guide mentioned above).
5. If they **are not** from a mandatory reporting country, ask the arrested person if they would like their country's consulate notified of their arrest, and notify the consulate if requested.

13

Making a Record of the Magistration

- A **record** (which may be written forms, electronic recordings, etc.) of the communication between the arrested person and the magistrate must be created and kept until whichever is earlier:
 - the date that the pretrial hearing (if any) ends, or
 - the 91st day after the record is made for a **misdemeanor** or
 - the 120th day after the record is made for a **felony**.

14

Making a Record - Appointment of Counsel

- A record shall be made and kept of:
 - the magistrate informing the person of the person's right to request appointment of counsel;
 - the magistrate asking the person whether the person wants to request appointment of counsel; and
 - whether the person requested appointment of counsel.

15

What is Bail?

- Bail is the security that a defendant puts up to make sure they show up for future court hearings and their trial.
- If they fail to show up, they may forfeit the bail in a bail forfeiture proceeding.

-- Art. 17.01; Magistration Deskbook, Chapter 2.

16

The Purpose of Bail

- Setting bail has three general objectives:
 - Ensuring that the defendant appears in court as directed;
 - Protecting the safety of the victim of the offense, if any, and the general safety of law enforcement and the community;
 - Releasing the defendant from custody.
- The purpose of bail is **not** to impose an additional punishment for an alleged offense and is not to keep a defendant locked up before trial!

17

Who May Set Bail?

- Generally, any magistrate may set a defendant's bail.
- Certain rules apply in certain situations, which will be discussed shortly.
 - See also Ch. 2 of the Magistration Deskbook for when a jailer, sheriff, or other peace officer may set bail.
- A magistrate must meet the training requirements of Arts. 17.023 and 17.024 to be eligible to set bail (all JPs must follow this, even if you don't set bail).
 - 8 hours of judicial education on magistration within 90 days of taking office (you're doing this now!), plus 2 hours every 2-year period afterward.

18

Defendant Charged with Committing a New Felony While on Bail for Felony

- If a defendant is charged with committing a felony while released on bail for another felony, special rules apply.

19

- If the new offense was committed **in the same county** as the previous offense, then the defendant may only be released on bail by:
 - The court before whom the previous offense is pending; or
 - Another court designated in writing by the court where the offense is pending.
 - TJCTC has a form for this designation.

Defendant Charged with Committing a New Felony While on Bail for Felony – Same County

20

Defendant
Charged with
Committing a
New Felony
While
on Bail for Felony
– Different
County

- If the new offense was committed **in a different county** as the previous offense, then:
 - electronic notice of the charge must be promptly given to the court before whom the previous offense is pending or another court designated by that court
 - for purposes of re-evaluating the original bail decision, determining whether any bail conditions were violated, or taking any other applicable action.
- Art. 17.027, CCP

21

Senate Bill 6 - The Damon Allen Act

- During the 2021 Legislative Session, a major bill was passed that significantly impacted how bail decisions are made in Texas.
- The largest impact was that the Office of Court Administration (OCA) was ordered to create the **Public Safety Report System (PSRS)** to help magistrates make and report bail decisions.

22

How Do I Make the Bail Decision?

23

Rules for Setting Bail

- Bail and bond conditions are to be set in accordance with the following rules:
 - The nature of the offense must be considered, including whether it involved violence under Art. 17.03 or violence against a peace officer.
 - The ability to make bail must be considered and proof may be taken on this point.
 - The future safety of the community, law enforcement and a victim are to be considered.

24

Rules for Setting Bail - Continued

- The criminal history record information for the defendant must be considered, including:
 - Information maintained in the Public Safety Report System
 - Any acts of family violence.
 - Other pending criminal charges.
 - Any instances in which the defendant failed to appear in court after release on bail.
- The citizenship status of the defendant.
 - Art. 17.15(a), CCP

25

The Bail Decision

- After individualized consideration of all the factors listed above, the magistrate must order that the defendant be:
 - Granted a **personal bond** with or without conditions;
 - Granted a **bail bond** with or without conditions; or
 - **Denied bail** under the Texas Constitution and other law.
- This order must be made without unnecessary delay but no later than 48 hours after the defendant is arrested.

26

Denial of Bail

- In most cases, a defendant may be denied bail **only by a district judge**, and only in specified situations.
- Bail may also be denied by a judge or magistrate where a defendant charged with family violence violates a bond condition relating to the safety of the victim or the community.
- And bail may be denied by a judge or magistrate where a defendant charged with certain felony offenses against a child younger than 14 violates a bond condition relating to the safety of the victim or the community.

27

Denial of Bail - Continued

- Defendants who are already on probation or parole and are being arrested for violations of those **may be denied bail** on request from the **trial judge** until they are brought before that judge.
- Defendants who are wanted for parole violations from another state are subject to the **Interstate Compact on Adult Offender Supervision** and may be denied bail as well.
 - See Magistration Deskbook, Chapter 2; Module on Extradition and Fugitives from Justice at TJCTC website.

28

Bail Form

- The Damon Allen Act requires that the PSRS generate “bail forms” which are simply tools to report the bail decisions made to OCA.
 - OCA maintains a searchable webpage (<https://topics.txcourts.gov/>) where bail forms are stored.
- A separate written order imposing the bail and conditions **must** be entered and given to the defendant (TJCTC has forms for this).

29

29

Determining Type and Amount of Bail

30

Who Decides What Kind of Bond is Required?

- The magistrate or judge who sets bail also decides whether the bond must be a bail bond, a personal bond, or a “PR Bond.”

31

What is a Personal Bond?

- A personal bond means that the defendant is **promising** to pay the amount of the bail if they don’t show up.
- But they are not required to have a surety co-sign the bond.
 - So if bail is set at \$5,000 and the defendant is allowed to sign a personal bond rather than a bail bond, and the defendant does not show up for court, the defendant is **liable** (on the hook) for the \$5,000 in a bail forfeiture proceeding.

32

What is a PR Bond?

- The term “PR Bond” or “Personal Recognizance Bond” is never used in any Texas statute!
 - But it generally refers to a personal bond with no monetary bail amount attached.
 - People often incorrectly call all personal bonds “PR bonds.”

33

Consequences of a PR Bond Violation

- The defendant promises to show up as a condition of being released but they are not liable in a bail forfeiture proceeding under Chapter 22.
 - But failing to appear on any bond, including a PR bond, is a criminal offense under Penal Code Sec. 38.10 (“Failure to Appear; Bail Jumping”).
 - So a defendant who fails to appear after signing a “PR Bond” could be charged with a new criminal offense for that failure.

34

PR Bonds vs. Personal Bonds

- “PR Bonds” are generally used only in fine-only and other minor misdemeanor cases while personal bonds may be appropriate in other cases as well.

35

Bail Bonds

- If a defendant is not allowed by the magistrate or by law to post a personal bond (or a PR bond), they will have to post a **bail bond**. There are two types of bail bonds:
 - **Cash bonds** – The defendant puts up cash in the amount of the bond. If they show up, they get it back. If they do not, bond forfeiture proceedings result.
 - **Surety bond** – Another person or entity, called a **surety**, promises to pay the bond amount if the defendant doesn’t show up. Usually the surety is a bail bond company or the defendant’s attorney.

36

Bail Bond Companies

- Usually the defendant will have to pay 10% to the bail bond company up front (often a higher percentage if the bond amount is low). So if you set a \$2000 bond, and don't allow a personal bond, the defendant will have to pay \$200 to the bail bond company.
 - If the defendant then **doesn't show up for court**, the bail bond company must pay the \$2000.
 - If the defendant **does show up for court**, the bail bond company **still** keeps the defendant's \$200, even though they did what they were asked to do.

37

What is a Bail Bond? – Cash Bond

- A defendant who is ordered to post a bail bond to be released from custody may deposit **cash** in the amount of the bail and in that case is not required to have a surety co-sign the bond.
- A magistrate **may not** require a defendant to post a cash bond unless the defendant has been re-arrested after already failing to appear on the original bond or in a surety surrender situation (discussed later).

38

Why Use Personal Bonds?

- Impact on Defendants
- Short- and Long-Term Costs
- No Reduction in Efficiency vs. Bail Bonds in Studies
 - Especially when notifications of trial settings are sent to defendants

39

In Texas:

- As of July 1, 2018, there were 42,943 individuals who have not been convicted being held in Texas Jails, at a cost per day to local governments of \$2,581,733 or nearly **\$1 billion annually**.

40

40

When Personal Bonds Must be Used

- In addition to the following situation, a personal bond **must** be given under certain circumstances for the defendant to receive mental health treatment as described by Art. 17.032, CCP.
 - Discussed yesterday!

41

41

Personal Bond Required - No Determination of Probable Cause

- If a defendant was **arrested without a warrant** and no determination has been made of whether or not probable cause exists (usually because no magistrate was available in the required timeframe), then the defendant **must** be released on a personal bond:
 - No later than **24 hours** after arrest and in an amount of no more than **\$5000** if the offense is a **misdemeanor**.
 - No later than **48 hours** after arrest and in an amount of no more than **\$10,000** if the offense is a **felony**.

- Art. 17.033, Code of Criminal Procedure;

42

No Determination of Probable Cause

- Many counties have a policy that all defendants arrested without a warrant must be seen by a magistrate within 24 hours to avoid triggering this requirement.
- Remember that if you determine there is **no probable cause**, the defendant is released **without** requiring a bond (not even a PR bond).
 - No legal reason to have them in custody, so cannot make them put up anything, even a promise, to get out of that custody.

43

No PC vs. No Determination of PC

- Ask yourself: ***Is there probable cause for the warrantless arrest?***
 - If your answer is **yes**, **set bail** as normal.
 - If your answer is **no**, the defendant must be **immediately released without bail**.
 - If your answer is “**that hasn’t been determined yet**,” the defendant must be **released on a personal bond as described above**.
 - This could occur when a magistrate was unavailable, or possibly where the officer needs to fix a technicality on a PC affidavit, but was unable to do so quickly.

44

No Release of Defendant on a Personal Bond

- Only the court before whom the case is pending (this won't be you) may release a defendant on a personal bond if charged with:
 - Burglary (Section 30.02, Penal Code);
 - Engaging in organized criminal activity (Section 71.02, Penal Code); or
 - Certain felonies under the Controlled Substances Act or under Section 485.033, Health and Safety Act (inhalant paraphernalia).

45

No Personal Bond – Violent Offenses

- A defendant **may not** be released on a personal bond if the defendant:
 - Is charged with an offense involving violence (see list in Ch. 2 of Magistration Deskbook); or
 - Is currently released on bail or community supervision for an offense involving violence and is charged with committing a new felony or offense alleging assault, deadly conduct, terroristic threat or disorderly conduct involving a firearm.

-- Art. 17.03, CCP

46

Do I Have to Use the Bail Amount on the Warrant?

- For a **standard arrest warrant**, the amount listed on the warrant is a **recommended bond amount**. The magistrate has a duty to consider all of the factors listed above, which may result in the bond amount being increased or decreased from what the warrant says.
- By “standard arrest warrant” we mean one:
 - **where there is not a criminal case pending in a court; or**
 - **where a magistrate has issued a warrant to arrest the defendant** based on probable cause that an offense has occurred.

47

When to Follow the Bail Amount on the Warrant?

- In situations where another court has **jurisdiction** (authority) over the defendant, **you should follow the amount on the warrant**.
- These situations include:
 - Cases where the **trial court already has the case** filed, such as where the defendant has been indicted, and the trial court issued the warrant.
 - Cases where the **defendant is on probation, parole, or deferred adjudication**.

48

If the Warrant Says “No Bail”

Sometimes you will see a person who was arrested on a warrant that says “no bail.”

This may mean that the issuing magistrate didn’t determine bail.

In this case, set the bail as you normally would.

49

“No Bail” Warrant

- Or it may mean they wish the defendant to be **denied bail**.
 - In a case where a district court may deny bail as described above, contact county officials immediately to determine the proper course of action.
 - In a case where the issuing court has authority to deny bail, such as probation/parole/ICAOS warrants, inform the defendant that the court which issued the warrant has denied them bail.
 - Otherwise, set the bail as you normally would. Contact the issuing magistrate if necessary to determine what their intention was.

50

Preset Bail Schedules

- Many counties in Texas have traditionally used a bail schedule that magistrates are instructed to follow.
- These schedules are based on a single factor: the nature of the crime committed.
- They require bail bonds in all cases rather than personal bonds.
- Magistrates do not typically take the defendant's ability to pay into account in setting bail.

51

51

Bail Schedules and Standing Orders

- A judge may not adopt a bail schedule or a standing order that authorizes a magistrate to make a bail decision without considering each factor listed in Art. 17.15(a).
- Each case considered on its own merits.

52

- A defendant charged with a Class B or higher offense who is unable to give bail in the amount required by a bail schedule or standing order must be:
- Told of their right to file an **affidavit** (sworn statement) stating that they do not have the means to pay \$___ and requesting that an appropriate bail be set; and
- Given the opportunity to file the affidavit with a financial info form

Inability to Afford Payment of the Bail Amount

53

New Bail Decision/Finding of Facts

The magistrate must consider the facts presented and the factors in Art. 17.15(a) and must set the bail.

If the magistrate does not set the defendant's bail below the amount required by a bail schedule or standing order the magistrate must issue written findings of fact supporting the bail decision.

54

Failure to Conduct Review within 48 Hours

If a magistrate or criminal trial judge does not conduct a review within 48 hours after the defendant's arrest, they must report that to OCA.

If a delay occurs that will cause the review to be held more than 48 hours after the defendant's arrest, notice of the delay must be given to the defendant's counsel or to the defendant if he does not have counsel.

55

Criminal History Training Requirements

56

56

Criminal History Info Training

- Criminal History Record Training
 - In addition to judicial education requirements
 - Two different levels applicable to judges/staff:
 - 8 hour TLETS Mobile Certification
 - Criminal Justice Practitioner Certification
- Which do you need?

57

Criminal History Info Training - TLETS Mobile Cert

- Any person who is searching (“querying”) a criminal history database to pull up criminal history information must receive the **8-hour TLETS mobile certification course**.
- The training is provided by DPS in-person.
- New users have a 6-month grace period to complete the 8-hour training from the date they received TLETS access.
- Recertification is required after two years.

58

Criminal History Info Training - CJP Cert

- If a person is not searching (or “querying”) criminal history databases, but is instead simply reviewing criminal history information, then they will only have to obtain and maintain a **Criminal Justice Practitioner (CJP) certification**.
 - The CJP certification can be obtained after a one-two hour self-paced online course. Recertification is required after two years.
 - A six-month grace period to receive this training is also provided, but TJCTC recommends receiving it as quickly as possible.

59

Criminal History Info Training - Signup

- A User Request Form must be completed by the jurisdiction's TAC or Administrator to request access to either certification training. This form is password protected as personal information is needed to create an account.
- For access to the User Request Form, questions about the TLETS access trainings and certifications, or to verify if certifications are still valid, contact DPS via email at: TCIC.Training@DPS.Texas.gov

60

CJIS Security Awareness

- In addition to one of those two certifications, **anyone** accessing the system will also need to take the CJIS Security Awareness Training.
- Training shall be taken within six months and biennially thereafter.
- The training through CJIS Online is web-based and self-paced and provides those who are authorized to access CJI with basic tools to protect the data.
- For information on how to access the CJIS Security Awareness Training please have the Administrator or TAC email DPS at security.committee@dps.texas.gov or cjis.audit@dps.texas.gov.

61

The Public Safety Report System (PSRS)

62

PSRS - Creation

- OCA contracted with a vendor, Automon, to create the system, which went live on April 1, 2022 (www.bail.txcourts.gov).
- The two main goals of the system are:
 - Provide a summary of criminal history information to magistrates so they can set bail and bond conditions more effectively. This summary is the Public Safety Report (PSR).
 - Provide a mechanism of reporting bail decisions to OCA (bail forms).
- The system is **not** designed to be a "one stop shop" for all magistrate duties or to keep records of all magistration information.

63

PSRS - Registration

- Registration to use the PSRS, especially to use it effectively, is a multi-step process.
- Each county has authority to set it up in a way that makes the most sense for their situation
 - Adds flexibility, but also uncertainty

64

PSRS - ORI

- The first step is to ensure that your court has an ORI (Originating Agency Number).
- This is a federal designation that provides agencies access to the National Law Enforcement Telecommunications System (NLETS), and, in Texas, the Texas Law Enforcement Telecommunications System (TLETS).
- An ORI is provided by DPS to entities who will be pulling or reviewing criminal history information, and is required for each court or entity.
- Detailed instructions on how to obtain an ORI are available on the TJCTC bail page under “How Do I Sign Up to Use the PSRS?”

65

PSRS - TAC/Administrator

- Each ORI must have either a Terminal Access Coordinator (TAC) or an Administrator
- If the ORI has a “terminal” (a dedicated connection solely used for pulling criminal history information), they need a TAC.
- If the ORI does not have a “terminal”, they need an Administrator instead.
- The TAC or Administrator’s role is to ensure that all users under an ORI are complying with required training and criminal history security guidelines

66

PSRS - Non-Terminal Agency Agreement

- All courts accessing criminal history information in TLETS through the PSRS that is not done through a dedicated terminal will need to complete a Non-Terminal Agency Agreement with OCA.
- The agreement is by ORI number and not by individual users.
- The agreement must be signed by the TAC or Administrator.

67

PSRS - LAU

- The next step is that each entity, such as a jail, sheriff's office, or court, that will use the PSRS must have a Local Administrative User (LAU).
- It is recommended, but not required, that the individual identified to be the PSRS Local Administrative User also be the current TAC or Administrator required by DPS
- The duties of the LAU are to add all of the people who need access to the system as "end users" and to assign end users the proper roles and permissions.

68

PSRS - LAU continued

- The LAU may be different from court to court.
 - Some courts will have the judge be the LAU, whereas others will have the court coordinator or other court personnel fill that role.
 - Some counties may have courts share an LAU, if desired.
- To register as an LAU, see Step 2 under the FAQ on how to sign up for the PSRS on the TJCTC Bail Page for the form that must be submitted.

69

PSRS - Two-Factor Authentication

- To log into the system after being added as an LAU or end user, a user will need to use either Google Authenticator or Microsoft Authenticator to set up a two-factor authentication for identity verification.
- Instructions, including instructions to use email instead of phone if preferred, are on the TJCTC Bail Page under Step 3 of the FAQ “How Do I Sign Up to Use the PSRS?”

70

Public Safety Reports (PSR)

71

Public Safety Report - Preparation

- The first step is that the criminal history databases must be searched (“queried”) to find the defendant’s criminal history information.
- How – if person has been booked, should have SID# (State ID#) that ties to only that defendant. If no SID, can use name, DOB, etc.
- Who – up to local jurisdictions. Most frequently is jail/sheriff or pretrial services. Whoever does this task must get the full 8-hour TLETS mobile certification.

72

Who Prepares the Report?

- A magistrate may personally prepare the report before or while making a bail decision using the Public Safety Report System.
- Otherwise, the magistrate must order the report to be prepared and provided to the magistrate no more than 48 hours after the defendant's arrest.
 - The magistrate may not order the sheriff's office to prepare the report without their consent.
 - Art. 17.022, CCP

73

PSR - Generation

- Once the defendant's name is entered, and the system is "queried" the PSRS will pull the criminal history into the system and create a "public safety report (PSR)."
- This must be done any time that a defendant has been arrested for any offense other than a fine-only misdemeanor and a bail decision needs to be made for their release.

74

What if the System is Down? - Misdemeanors

- Art. 17.022(f) of the Code of Criminal Procedure provides that if the PSRS is down for more than 12 hours, a defendant charged with only misdemeanor offenses may be magistrates without considering a PSR.
 - Best practice would be to consider criminal history from an alternate source if possible.

75

What if the System is Down? - Felonies

- The statute is silent as to what happens if the defendant is charged with a felony.
- TJCTC recommends:
 - performing the magistration and making the bail decision within the statutorily-mandated 48-hour time period,
 - considering criminal history from an alternate source if possible, and
 - considering a PSR when available, and scheduling a bond modification, if necessary.

76

PSR - Contents

- The PSR must provide:
 - the required factors for setting bail provided by Article 17.15(a)
 - case & offense info and defendant's identifying information,
 - information on the eligibility of the defendant for a personal bond;
 - information regarding the applicability of any required or discretionary bond conditions; and
 - in summary form, the criminal history of the defendant.

77

PSR - Crim History Summary

- Must include information regarding any:
 - previous misdemeanor or felony convictions;
 - pending charges;
 - previous sentences imposing a term of confinement;
 - previous convictions or pending charges for:
 - offenses that are offenses involving violence as defined by Article 17.03; or offenses involving violence directed against a peace officer; and
 - previous failures of the defendant to appear in court following release on bail

78

Bail Forms

79

Bail Form

- The Damon Allen Act also requires that the PSRS generate “bail forms” which are simply tools to report the bail decisions made to OCA.
 - OCA maintains a searchable webpage (<https://topics.txcourts.gov/>) where bail forms are stored.
- A separate order imposing the bail and conditions must be entered and given to the defendant.

80

Bail Form - Info

- The bail form will contain the type and amount of bail and bond conditions.
- When the bail form opens, there will be a list of conditions and you may select the red circle with the minus sign to remove those conditions.

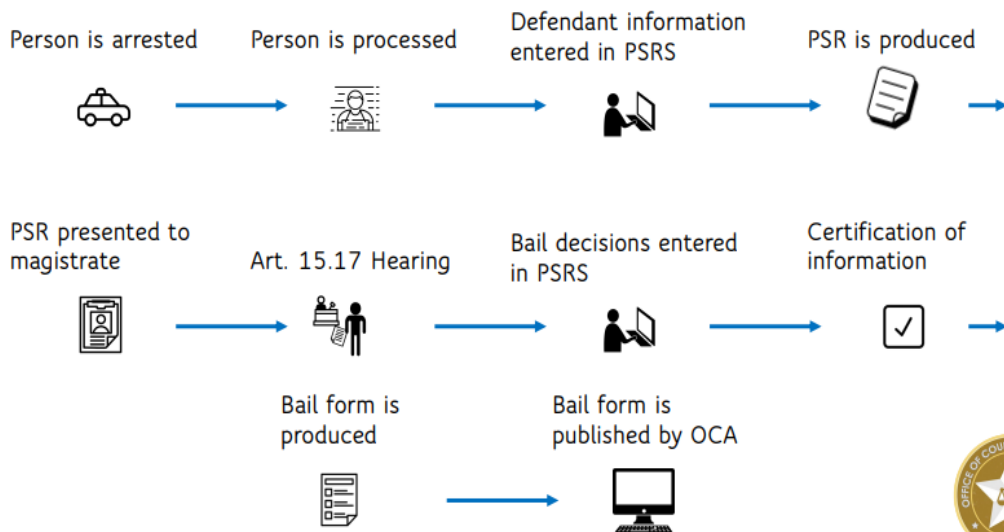
81

Process Overview

82

82

OVERVIEW



FAQ

What If I'm Having Issues Logging In or Setting Up?

- TJCTC is unable to provide assistance related to your login, ORI, LAU, or other details of the PSRS.
- For assistance on these issues, you can reach OCA's bail team by emailing bail@txcourts.gov.
- You can reach the Automon help desk by calling 480-368-8555 and selecting option 2, or by email at support@automon.com.

85

I Need More Help Signing Up?

- Additionally, anyone may view recordings of the training sessions on the OCA resource page.
- There are separate trainings for LAUs (people who add users to the system) and end users (such as magistrates reviewing PSRs and submitting bail forms.)

86

What If I'm Not Signed Up for PSRS?

- Effective April 1, 2022, it is mandatory in most situations, including after an on-sight arrest or on an arrest warrant based on probable cause for a new offense, for a magistrate to review a PSR before setting bail.
- If you have not yet gotten signed up, in order to magistrate, the best option is to have someone who has access print off a PSR for you to review.

87

What About Bond Modifications? - PSR

- When a person's bond is modified, a PSR is not required to be considered.
- However, the magistrate or court modifying the bond must consider all of the factors in Art. 17.15(a), including the defendant's criminal history information, so the magistrate may wish to do so by viewing a PSR.

88

What About Bond Modifications? - Bail Form

- Also, a bail form must be submitted through the PSRS when the modification occurs, if either the bond type or amount is modified.
- If only the bond conditions are changed, a new bail form is not required, though there are separate bond condition reporting requirements.
- This requirement would apply to new bonds applied after a modification hearing or after a surety surrender or other bond modification process.

89

What About Issuing Warrants? - PSR

- For issuance of standard arrest warrants (meaning a warrant issued after presentation of a probable cause affidavit for arrest on a new charge), use of the PSRS will not be required.
- Bond amounts on arrest warrants are recommendations, and therefore not final determinations of bail, so a PSR does not need to be considered, and a bail form does not have to be generated.
- When the person is arrested, the magistrate who determines the bail amount must review a PSR and submit a bail form.

90

What About Issuing Warrants? - Bail Form

- Warrants where the issuing court is determining the bail amount, and a magistrate may not modify that amount, such as warrants on probation revocation hearings, would require a bail form to be generated, but not consideration of a PSR.
 - This bail form should be generated once the defendant is arrested and ordered to post the bail.
- Since there is no bail on a capias pro fine warrant, there is no bail form generated and a PSR does not need to be considered.

91

What About Extradition Cases?

- No PSR is needed to be considered because the magistrate isn't "considering the release on bail of a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense" because the person isn't charged with a Texas offense.
- Additionally, a bail form is not needed to be submitted because bail isn't being set under Chapter 17 of the CCP but instead under Chapter 51.

92

Resources for Help With the PSRS

- TJCTC is unable to assist with PSRS login or technical issues.
- OCA info page:
 - www.txcourts.gov/programs-services/public-safety-report-system/
- bail@txcourts.gov (OCA email for system/setup questions)
- Automon (company that creates PSRS)
 - 480-368-8555 option 2, support@automon.com
 - <https://help.automon.com/psrs/Content/using-help-center.htm>
- www.tjctc.org/bail has answers to many FAQ related to the PSRS, including how to get signed up.

93

Bond Conditions

94

Bond Conditions

- In addition to (or instead of) setting a dollar amount on the defendant's bond, the magistrate can order the defendant to follow certain **conditions** in order to remain out of custody while awaiting trial.

-- Art. 17.40, Code of Criminal Procedure; see Magistration Bench Card No. 8

95

Mandatory and Discretionary Bond Conditions

- Magistration Bench Card 8 gives a list of bond conditions that **may**, and in some cases **must**, be imposed in specific circumstances or on specific offenses.
 - This information is also provided in **Public Safety Reports** in the PSRS.
- TJCTC has bond condition forms online, including forms that provide for the conditions listed in the chart. Make sure that all of the bond conditions are given to the defendant **in writing**.
 - Art. 17.51, CCP

96

Common Bond Conditions

- Common bond conditions include:
 - Commit no additional offenses while on bond.
 - Report to the **probation department** for monitoring.
 - Probation department is often called **CSCD** for Community Supervision and Corrections Department.
 - CSCD may impose a fee of **\$25-60 per month** for monitoring.

97

Bond Conditions - Scope

- The magistrate has **broad** discretion to impose conditions, not limited just to those listed in the bench card.
 - Discretion is **not** unlimited! Don't violate the rights of the defendant by ordering things like "You must donate blood" or "You must attend church" or "You must enlist in the Marines."

98

Ignition Interlock Device

- One of the most frequently imposed bond conditions is requiring a defendant to install an **ignition interlock device** (IID) on their car and not drive any car that doesn't have an IID installed.

-- See Magistration Bench Card 9

99

Ignition Interlock Device - Mandatory

- This bond condition is **mandatory** if the defendant was arrested for:
 - Intoxication Assault,
 - Intoxication Manslaughter,
 - DWI with Child Passenger, or
 - 2nd or greater offense of Driving While Intoxicated, Flying While Intoxicated, or Boating While Intoxicated (including w/child passenger).
- The magistrate can waive the imposition of this condition if it is “in the interest of justice.”

100

Ignition Interlock Device - Waiver



- An example of when you might waive IID is if you are imposing a condition that the defendant not consume alcohol and must wear a device that constantly monitors the defendant for alcohol in their system (called a **SCRAM device**).
 - Since any alcohol consumption is already a violation of their bond conditions, the IID is less necessary.

101

Ignition Interlock Device - No Car

- What if the defendant says they do not have a car to install an IID on?
- In this situation, you should still order the defendant not to drive any car that doesn't have an IID installed

102

Ignition Interlock Device - Discretionary

- A magistrate **may** also impose an IID in situations where it is not mandatory, as long as it is reasonably related to the safety of the victim or the community.
 - For example, some counties have a policy of requiring an IID on a first offense DWI if the defendant's BAC is over 0.15.

103

Ignition Interlock Monitoring

- The magistrate may designate an agency/entity to monitor ignition interlock installation and reports.
 - Code of Criminal Procedure Art.17.441.
- This may include the magistrate's staff.

104

Breakout Discussion

- Defendant is arrested for DWI with Child Passenger. She does not have any prior DWIs or a criminal record. When you tell her you are going to require her to get an ignition interlock she says she has lost her job due to the pandemic and cannot afford an IID.
 - What bond conditions would you require?
 - What if she says the car she was driving was a friend's and she does not own a car?
 - How do you make sure she will comply with the bond conditions you impose?
 - What should you do if you are notified that she is not complying with the bond conditions?

105

Bond Conditions - Family Violence

- In family violence cases, bond conditions are often very appropriate and effective. For example:
 - You could order the accused not to have contact with the alleged victim of the offense.
 - You could order the accused to take an anger management course.
 - You could order the defendant to not track or monitor personal property or vehicles in the possession of the alleged victim.
 - If the defendant was alleged to be intoxicated at the time of the assault, you could order them not to consume alcohol or other intoxicants.

106

Notice of Bond Conditions (Clerk)

- The clerk of the court must send a copy of an order imposing a bond condition, or modifying or removing a bond condition, to the prosecutor and the sheriff of the county where the defendant resides.
 - The clerk must do this as soon as practicable but no later than the next business day after a magistrate issues the order
 - The clerk may delay sending a copy of the order only if they lack information necessary to ensure service and enforcement.

107

Notice to School or Child Care Facility of Bond Conditions (Clerk)

- If the bond condition order prohibits a defendant from going near a child-care facility or school, the clerk must also send a copy of the order to the facility or school.
- The copy of the order may be sent electronically.
 - Art. 17.51, CCP

108

Notice of Bond Conditions – All Offenses (Magistrate)

The magistrate or their designee must provide a written notice to the defendant of the bond conditions and the penalties for violating a bond condition.

The magistrate must make a separate record of the notice provided to the defendant.

OCA must create a form for the magistrate to provide notice to the defendant.

109

Notice of Bond Conditions for Violent Offenses (Magistrate)

A magistrate who imposes a bond condition on a defendant for stalking or a violent offense (listed in Art. 17.50(a)(3)) must notify the sheriff of the condition **no later than the next day**.

The magistrate must also notify the sheriff of any bond modification or revocation for a violent offense or disposition of the underlying charges (if aware).

110