

THE POCKET GUIDE TO LOOKING LIKE YOU KNOW WHAT YOU ARE DOING WHEN YOUR CLIENT IS (OR IS ABOUT TO BE) ARRESTED.

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Being arrested, or having a loved one arrested, is one of the most stressful and frightening things imaginable. In my experience, one of the best antidotes for this stress is to tell the client and their family exactly what is happening and going to happen because it is that lack of knowing what is going to happen that scares people the most. This guide will cover about 95% of situations.

SCENARIO ONE: THE CALL FROM THE JAIL

There are two basic ways to get arrested:

Without a warrant

Most common in DWI, Family Violence, drug cases

Also, offenses committed in the view of the police or where police were called shortly after or during the incident and came (e.g., shoplifting at a store, a family violence case where the police were called and the accused is present when they arrive)

Usually, an arrested person cannot be released until a surety bond is made

For those who are arrested without a warrant, a magistrate will set the bond. An arrested person has to be brought before a magistrate without undue delay, but waiting 12 hours or so is not uncommon. The magistrate will advise the arrested person of the charges and their rights and set the bond. Only at that point can the bond be made. We do not have all-night magistrates in Tarrant County. Thus, if someone is arrested at 10:00pm, they will probably not see a magistrate until the next morning. A person arrested without a warrant cannot be bonded out until they are both booked in and a magistrate has set a bond.

In family violence cases, the complainant has the option of getting a protective order. If that option is exercised, then the magistrate must

read the order to the accused and the person cannot get out until this happens.

Intoxication offenses have a number of hours during which the intoxicated person cannot be let out of jail. This time really doesn't matter, though, because all the jails take longer than that amount of time to book the person in.

BEST STRATEGY: if someone is arrested without a warrant, call a good bondsman. The bondsman will know where to check to get the information about the charge, bond amount, and where the person is in the book-in process. The bondsman will also be able to find out if a protective order has been requested.

With a warrant

PC (probable cause) warrants: cases where the police were not immediately called, where the suspect was not present when they arrived, where there has been an investigation, etc., a detective prepares a warrant and has a judge sign it

Most of the time, the magistrate who signs the PC warrant will put a bond amount on it.

PC warrants are not in the county computer so you cannot learn that they exist except by speaking with the detective who got it or some other police officer. They are entered into the TLETS system (law enforcement database) but this is not accessible to anyone outside of law enforcement.

Once the person is booked in, the bond amount will be entered in the computer and the bond can then be posted

This process (booking in) may take longer than 24 hours if arrested by Fort Worth PD or Tarrant County. If the person is arrested by one of the other cities in Tarrant County, the

book-in time varies, but in all cases will be several hours

traffic tickets

There are two different situations where a traffic ticket becomes a warrant. One is where the defendant does not show up for court when the ticket is pending. A warrant is then issued for failure to appear. The other is where the defendant agrees to a payment plan on a disposed ticket and then doesn't pay.

On all pending Class C misdemeanor cases (traffic tickets are Class C misdemeanors, generally punishable by up to a \$500 fine) the defendant is entitled to a bond. This is true even where there has been a warrant for failure to appear. Attorneys are free to sign these bonds. A bondsman can also post a bond in the amount of the ticket pending disposition.

On the other hand, where the case was already disposed, the defendant is not entitled to a bond. There are only two ways to take care disposed tickets. One is to have someone go to the city court that issued the ticket and just pay it in full. The other is for the defendant to "lay out" the ticket, which means staying in jail and receiving some daily credit for time served at the rate of, say, \$100 per day of incarceration. A bondsman can find out the nature of the ticket or tickets for which the warrants were issued.

probation revocations

There are two types of probation and which type the person is on is going to affect their chances of getting a bond.

One type is called deferred adjudication. In deferred adjudication, the person pleads guilty (or no contest) and the judge finds there is sufficient evidence of guilt to find the person

guilty, but does not enter a finding of guilt. Thus, the person is not convicted so long as they successfully complete a probationary period. Because there has been no conviction the person is entitled to a bond.

The other type of probation is usually called "straight" probation. In this type, the person is convicted and sentenced to some period of time which cannot exceed ten years. Then, that sentence is suspended and the person is placed on probation for some period of years. In this case, the person is convicted and thus has no presumption of innocence. For this reason, bond is discretionary. The court can lawfully refuse a bond.

Most of the time with a revocation warrant (regardless of whether the probation is straight or deferred) you can expect there to be a "no bond hold" which means the judge has ordered that the person be held without bond. The attorney will need to visit with the court to get a bond set. This is especially true on felonies where "no bond holds" are the rule. On misdemeanor revocations we see bonds more often.

Unlike PC warrants, revocation warrants are on the county computer immediately upon signing, so you can see them even before the person is arrested and know in advance whether a bond is set or if it is a "no bond hold." A lot of times where there is a hold, you can get with the judge before the person is arrested and get a bond set if the person is current on their probation fees. It is always worth a try. If the person is already arrested, you just need to go by the judge's chambers and try to get a bond set and go about the process of bonding them out.

Again, a bondsman can find out the information for you regarding whether a bond is set and which court it comes out of. For revocations, anyone who has access to the county computer can also find this out.

The urban myth formerly known as "a writ."

A lot of people who end up in the system are familiar with the term "writ of habeas corpus." It used to be in Tarrant County that you could escape the excruciating book-in process by getting a judge to sign a writ and presenting that to the jail. Technically, that process still exists, but it has been made so complicated and unappealing that it is hardly worth it. Now, you have to go to a judge and have the judge sign the writ. Before you do this, you will need to know everything you can about the person and the charge, because there are certain charges judges won't sign writs on. The judge has to be one who has the jurisdiction to sign a writ - either a District Judge of the County Criminal judges of courts 8, 9 and 10, I believe. Then you have to go to the jail and get a statement from the jail about the charges, criminal history, etc. Then you have to go back to the judge and get the judge to actually sign the writ bond. Then you have to carry that back to the jail. If you have any time left during the night, you can get some sleep. Any charge that would be worth all this trouble would probably not be one that a judge would sign a writ on anyway.

How long will it be before I get out?

Ah, the million-dollar question. If someone is arrested by the Fort Worth Police Department without a warrant, it could take as much as 36-48 hours and they will not be released until they are booked in at the Mansfield Correctional Facility and their bond is made. It can be much faster if someone is arrested in one of the other cities in Tarrant County, as they hold them in the jail in that city and they don't go to Mansfield, but all of these cities have part-time magistrates who only come once a day to give people their warnings and set bonds. Remember, no one can be bonded out until a bond is set and it has to be set by a magistrate. Especially with the FWPD/Mansfield combination, it can take upwards of 10 or 12 hours before the person is booked-in. Until they are booked in, they don't even exist as far as the jail is concerned. Once they are booked in and a bond is posted, depending on what is going on at the jail (like a shift change, for instance) it can take an additional several hours for them to be booked out. Once again, it is generally not as bad in the other cities besides Fort Worth. It's a good idea to have a bondsman on standby to post the bond as soon as it is set.

What if I want to post a cash bond?

You can do that. The process is much simpler if the person is arrested in one of the other cities besides Fort Worth. In Fort Worth, a cash bond has to be posted at the Tarrant County Jail and it is a bit of a zoo. When you post a cash bond, you will get most of your money back at the end of the

case - once the case is finally disposed one way or the other (plea, trial or dismissal). I think the county keeps 5% of it or something like that as an administrative fee.

Depending on the bondsman, they will charge from 10% to 20% of the bond amount as a non-refundable fee. There are a lot of bondsmen out there. I wouldn't mess around with one who charges 20%. Ask them up front what they charge.

SCENARIO TWO: "I JUST FOUND OUT I HAVE A WARRANT!"

There are instances when a person finds out they have a warrant ahead of time. It could be a courtesy call from a detective or a probation officer. It could be a letter from the city on a traffic ticket warrant. In this situation the number one goal is to prevent the client from going into custody on the warrant and falling into the black hole of the book-in/bonding/book-out process.

The best way to avoid this is to arrange a "walk-thru" for your client. Of course, if it is a traffic warrant, you can just go pay the fine and it will go away or, if it is a case where your client has never entered a plea, you as a lawyer can sign a surety bond at the city courthouse and get it put on the court's docket.

A "walk-thru" is a procedure whereby the person goes to the jail with their driver's license and "books in" without actually going into custody. What I will ordinarily do is get a bondsman to meet my client (or meet my client and me) at the jail and then the bondsman completes the procedure. They know how to do this. A good bondsman is an asset in a walk-thru.

Of course, one can do a walk thru and post a cash bond as well, I suppose, but I have never seen anyone do it. There are things that could go wrong in a walk-thru and what happens if something goes wrong is that the client falls into the black hole. Remember that a client doing a walk-thru voluntarily enters the jail with an active warrant. A bondsman can identify the signs if something is going wrong.

What can go wrong? There are lots of little things that could go wrong. This is the government, after all.

The number one bad thing that can happen in a walk-thru is the presence of a protective order. This only happens in family violence cases, but it is not uncommon. If the complainant requests a protective order it must be personally served on the arrestee by reading and giving them a copy. Under the law, only a magistrate can read the order to the arrested person and both must sign. Needless to say, there are no magistrates in the walk-thru area and your client is there in the belly of the beast with an active warrant. Thus, even though you and

your client showed up to do a simple walk-thru, your client enters the black hole and you leave the jail embarrassed. If your client has a warrant for a family violence case, ALWAYS FIND OUT IF THERE IS A PROTECTIVE ORDER!! It can be wired around, but only by an attorney who really knows the ropes.

Another bad outcome pertains to conditions of bond - one condition in particular which we see more and more requires the arrested person to "be released to CSCD." Community Supervision and Corrections Department (CSCD) is the probation department. They also have a unit that oversees bond conditions such as random UAs, electronic monitoring, special reporting conditions, etc. If this condition exists, and if you are there with your client after the time that CSCD can do this, then it is likely to be black hole city for your client. So in all cases, before you do a walk-thru, ALWAYS FIND OUT IF THERE ARE ANY CONDITIONS OF BOND REQUIRING YOUR CLIENT TO BE RELEASED TO CSCD!!

You can find out all of this by asking your bondsman. Be sure to ask them. Oftentimes bondsmen have agents who post their bonds and they don't ask about these things. So be sure you ask them to check first.

When someone calls me from the jail or upon finding out they have a warrant, what I will do nine times out of ten is first, get a hold of a bondsman and put the family in touch with them. Then, I will tell them step-by-step what is going to happen. It really, really helps. All they want is to not be in jail. Cross that bridge first. Then, you can worry about what to do with the case.