

**20TH JUDICIAL DISTRICT OF COLORADO****ADMINISTRATIVE ORDER 03-103****SUBJECT: Criminal Bonding Procedures and Appointment of Counsel**

To: **Judicial Officers, District Administrator, Clerk of Court, Chief Probation Officer, Community Justice Services, District Attorney, Public Defender, Bond Commissioners, Captain of the Jail, Law Enforcement Agencies**

From: **Maria E. Berkenkotter
Chief District Judge**

DATE: **August 25, 2014**

This order replaces all previous versions of 20th Judicial District Administrative Order 03-103.

1. Filing of Felony Cases

Felony cases filed in the Twentieth Judicial District, except class 1 felonies, shall be commenced by the filing of a felony complaint in the county court. If a case is bound over to the district court at the preliminary hearing, the complaint shall be deemed a felony information pursuant to Rule 7 (b)(4) of the Colorado Rules of Criminal Procedure.

All class 1 felonies shall be commenced by filing a motion for direct filing in district court with the Chief Judge. The Chief Judge will authorize the filing of the information in district court.

2. Application for Court-Appointed Attorneys

The Twentieth Judicial District of the State of Colorado has adopted the following guidelines for the appointment of defense counsel at public expense:

- (a) A defendant applying for court-appointed counsel or a public defender shall be evaluated by the office of the public defender as either indigent or non-indigent. Only those defendants who are determined by the court to be indigent shall be qualified to receive court-appointed counsel.
- (b) Defendants applying for court-appointed counsel must go to the public defender's office to fill out an application during hours specified by that office.

- (c) Documentation showing proof of gross income and gross income of family members living with the defendant must be provided to the public defender's office. Documentation such as recent paycheck stubs or income tax forms for the past two years are acceptable.
- (d) Proof of monthly expenses for all ongoing payments plus any unusual or recurring expenses must be furnished to the public defender.

3. Bonds in Criminal Cases

(a) Bond Commissioners. Twentieth Judicial District Bond Commissioners shall be employed by the Boulder County Community Justice Services Department, supervised through the Pretrial Services Unit and sworn by the Chief District Judge as deputy court clerks.

(b) Authority to Grant Bail. The Bond Commissioners, sheriff and deputy sheriffs of Boulder County are authorized to admit any person charged with or under investigation for any one or more of the offenses set forth in section (3)(c) of this order to bail in the amount set opposite the type of offense or as specified on the existing warrant, except as prohibited by section (3)(e) of this order.

(1) Such bail shall be in the form of cash, certified check, cashier's check, credit card, debit card, stocks or bonds, real estate, corporate surety or a professional bail bondsman currently licensed by the State of Colorado. Personal checks will not be accepted for bonds.

(c) Bond Requirements and Schedule of Bonds (by agreement with the District Attorney's Office)

(1) The amount of bond set opposite the specified criminal offense in the Schedule of Bonds in this order shall be the bail for the offense or offenses charged unless otherwise ordered by a judge or magistrate, or unless prohibited by section (e) of this order.

(2) If a person is charged with more than one offense, no greater bail than the highest bail for any single offense shall be required. Bail shall not be accumulated.

(3) If two or more persons are charged with an offense or offenses, the amount of bond set forth in the Schedule of Bonds in this order shall be for each person and not the total amount for all persons charged.

(4) All bonds accepted under this order shall command the person charged with the offense to appear before the court on the court's regularly scheduled advisement day.

(5) Schedule of Bonds:Felony Bonds

18-4-203	Second Degree Burglary of a Non-Dwelling	500.00
18-4-204	Third Degree Burglary	200.00
18-4-401	Theft between \$1,000-\$20,000	200.00
	Theft over \$20,000	3,500.00
18-4-402	Theft of Rental Property \$1,000-\$20,000	200.00
	Over \$20,000	3,500.00
18-4-409	Aggravated Motor Vehicle Theft in the First Degree (all sections)	200.00
18-4-410	Theft by receiving between \$1,000-\$20,000	200.00
	Theft by receiving over \$20,000	3,500.00
18-4-502	First Degree Criminal Trespass	1,500.00
18-4-602	Theft of Sound Recordings	200.00
18-5-102	First Degree Forgery	200.00
18-5-105	Criminal Possession of a First Degree Forged Instrument	200.00
18-5-109	Criminal Possession of Forgery Devices	200.00
18-5-113	Criminal Impersonation	200.00
18-5-205(3)(c)(d)	Fraud by Check	200.00
18-5-206(1)(c)(d)	Defrauding a Secured Creditor	200.00
	(2)(c)(d) Defrauding a Secured Creditor	500.00
18-5-401	Commercial Bribery	200.00
18-5-403	Bribery in Sports	200.00
18-5-702(3)(c)	Unauthorized Use of Financial Transaction Device	200.00
18-5-702(3)(d)	Unauthorized Use of Financial Device over \$20,000	2,500.00
18-5-903(2)(b)(c)	Criminal Possession of Financial Transaction Device	200.00
18-5-705	Criminal Possession or Sale of a Blank Financial Transaction Device	200.00
18-5-706	Criminal Possession of Forgery Devices	200.00
18-5-707	Unlawful Manufacture of a Financial Transaction Device	200.00
18-5.5-102	Computer Crime \$1,000-\$20,000	200.00
	Over \$20,000	3,500.00
18-18-404	Unlawful Use of a Controlled Substance as Class 5 Felony	200.00
18-18-405	Possession of Controlled Substance	200.00
18-18-405(1)(a)	Unlawful Possession of Chemicals or Supplies with Intent to Manufacture a Schedule I or II Controlled Substance	500.00

18-18-406	Possession of Marijuana other than Class 3 Misdemeanor or Petty Offense	200.00
18-18-412.5	Unlawful Possession of Methamphetamine Manufacturing Materials	200.00

If the offense described is a crime of attempt, accessory, complicity, or conspiracy, the bond amount shall be the same as listed for the substantive crime.

Misdemeanor Narcotics and Drug Violations:

18-18-404	Possession, Sale or Use of Controlled Substance (M2)	100.00
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Fish and Game Violations:

Misdemeanors (M1 and M2 only)	50.00
Felonies	100.00

Class One Misdemeanors: 100.00

Class Two Misdemeanors: 50.00

Traffic Offenses:

42-2-138 or	Driving under Suspension, Denial	
42-7-422	Cancellation or Revocation	50.00
42-2-138(1)(d)(I)	Driving under Revocation – Alc	100.00
	With condition that the defendant not drive any motor vehicle during the period of such driving restraint C.R.S. 16-4-105(5).	
42-2-101	No Operator’s License	50.00
42-2-1604	Hit and Run: Damage to Property Only through 1606	50.00
42-4-107	Disobeying a Police Officer	50.00
42-4-1301	Driving Under the Influence:	
1 st Offense		500.00
2 nd Offense		500.00

With condition that the defendant abstain from the use of alcohol or the illegal use of drugs and be subject to substance abuse monitoring. C.R.S. 16-4-105(6)(a).

3rd Offense Bond Not Authorized

Driving While Ability Impaired:

1 st	300.00
2 nd Offense	300.00

With condition that the defendant abstain from the use of alcohol or the illegal use of drugs and be subject to substance abuse monitoring C.R. S. 16-4-(105(6)(a).

3 rd (or greater) Offense	Bond Not Authorized
42-4-1301 and 18-9-116.5 DUI with vehicular eludg	1,000.00
42-4-1409 No Proof of Insurance	50.00
42-4-1401 Reckless Driving	50.00
42-4-1413 Eluding an Officer	300.00
ALL OTHER SECOND CLASS TRAFFIC OFFENSES	50.00

(6) If conditions of release are deemed appropriate, admit the defendant to the pre-trial release program pursuant to C.R.S. 16-105(8) and attach reasonable conditions as set forth in 16-4-105(8) or as approved by the Court to the bond in order to assure future court appearances and reduce the perceived risk of danger to the defendant or to the community. A defendant's refusal to abide by the pre-trial release program shall be grounds to hold the defendant until the next regular court proceedings.

(7) The Bond Commissioners, sheriff and deputy sheriffs SHALL NOT authorize bail if the defendant falls within section (7)(e) of this order and must bring the defendant before the court during regular business hours after notice to the district attorney. The district attorney shall have the right to attend and advise the court of matters pertinent to the amount of bail to be set. C.R.S. 16-4-102.

(d) Personal Recognizance Bonds

- (1) Bond Commissioners are authorized to interview all Twentieth Judicial District defendants who are in custody for criminal offenses. Bond commissioners shall not interview defendants charged with a class I or II felony prior to the first appearance hearing unless instructed to do so by the court.
- (2) Bond Commissioners shall determine from verifiable information contained in the Twentieth Judicial District bond application the defendant's qualification for a personal recognizance bond pursuant to section 16-4-105, C.R.S.
- (3) If the Bond Commissioners determine that a defendant in custody for a traffic offense, misdemeanor, or class III, IV, V or VI felony offense is qualified for a personal recognizance bond including any cosigners when necessary, the defendant may be released on such bond and if conditions of release are deemed appropriate, admit the defendant to the pre-trial release program pursuant to C.R.S. 16-4-105(8) and attach reasonable conditions as set forth in 16-4-105(8)(a-i) or as approved by the Court to the bond in order to assure future court appearances and reduce the perceived risk of danger to the defendant or to the community. A defendant's refusal to abide by the pre-trial release program shall be grounds to hold the defendant until the next regular court proceedings.

In determining whether a defendant is eligible for a personal recognizance bond, the Bond Commissioners must consider the following facts:

- a) The arrested person fails to sufficiently identify himself; or
 - b) The arrested person refused to sign a personal recognizance;
 - c) The continued detention or posting of a surety bond is necessary to prevent imminent bodily harm to the accused or to another; or
 - d) The arrested person has no ties to the jurisdiction of the court reasonably sufficient to assure his appearance, and there is substantial likelihood that he will fail to appear for trial if released upon his personal recognizance; or
 - e) The arrested person has previously failed to appear for trial for an offense concerning which he had given his written promise to appear.
- (4) The amount of personal recognizance bond shall be as follows: Class III Felony: \$2,000.00; Class IV Felony: \$500.00; Class V and VI Felonies: \$250.00; Class I Misdemeanor: \$100; Class II Misdemeanor: \$50.00; Class III Misdemeanor and Petty Offense: \$50.00 (If required under C.R.S. 16-4-111).
- (5) Any defendant charged with a class 3 misdemeanor or petty offense, or any unclassified offense for a violation of which the maximum penalty does not exceed six months' imprisonment, shall be released on a personal recognizance bond unless one or more of the following facts are found to be present (16-4-111);
- a) The arrested person fails to sufficiently identify himself; or
 - b) The arrested person refuses to sign a personal recognizance;
 - c) The continued detention or posting of a surety bond is necessary to prevent imminent bodily harm to the accused or to another; or
 - d) The arrested person has no ties to the jurisdiction of the court reasonably sufficient to assure his appearance, and there is substantial likelihood that he will fail to appear for trial if released upon his personal recognizance; or
 - e) The arrested person has previously failed to appear for trial for an offense concerning which he had given his written promise to appear.
- (6) Defendants making applications for a personal recognizance bond shall swear or affirm under oath that the information contained on the bond applications true. Falsifying the information shall subject the defendant to the penalties provided by law and revocation of the bond. Such oath or affirmation shall be both oral and written and shall be administered by the Bond Commissioner before the defendant signs the bond application.
- (7) The Bond Commissioners, sheriff and deputy sheriffs SHALL NOT authorize bail if the defendant falls within section (7)(e) of this order and must bring the defendant before the court during regular business hours after notice to the district attorney. The district attorney shall have the right to attend and advise the court of matters pertinent to the amount of bail to be set. C.R.S. 16-4-102.

- (8) The Bond Commissioners are authorized to add nonmonetary conditions on any type of bond that they have authority to set.
- (9) A Defendant is not eligible for a personal recognizance bond if the arrestee has a record of conviction of a Class 1 misdemeanor within 2 years or a Felony within five years prior to the bail hearing. 16-4-104(2)(b).

(e) When Court Proceedings with Presence of the District Attorney Required:

HOMICIDE and Related Offenses

Murder, 1st degree	18-3-102
Murder, 2nd degree	18-3-103
Manslaughter	18-3-104
Negligent Homicide	18-3-105
Vehicular Homicide	18-3-106
Vehicular Eluding	
Resulting in Death	18-9-116.5

ARSON (if felony) 18-4-102 through 105

ASSAULTS

1 st degree Assault	18-3-202
2 nd degree Assault	18-3-203
3 rd degree Assault	18-3-204
Vehicular Assault	18-3-205
Menacing with a	
Deadly Weapon	18-3-206

BAIL BOND

Violation of Bail Bond 18-8-212

BURGLARY

1 st degree Burglary	18-4-202
2 nd degree Burglary	18-4-203

CONTROLLED SUBSTANCES

Unlawful Distribution,
 Manufacturing,
 Dispensing,
 Sale of a Schedule
 I or II Substance
 (not mere possession) 18-18-405(2)(a)

ESCAPE 18-8-208

KIDNAPPING

1 st degree Kidnapping	18-3-301
2 nd degree Kidnapping	18-3-302
Violation of Custody Order	18-3-304
Enticement of a Child	18-3-305

RESTRAINING/PROTECTION ORDER

Violation of Protection Order 18-6-803.5

ROBBERY

Robbery 18-4-301

Aggravated Robbery 18-4-302

Aggravated Robbery of a
Controlled Substance 18-4-303

Robbery of Elderly 18-4-304

SEXUAL CRIMES

Sexual Assault 18-3-402

Unlawful Sexual Contact 18-3-404

Sexual Assault on a Child 18-3-405, 405.3, 405.5

STALKING (Felony only) 18-9-111 (4)

WRONGS TO CHILDREN

Incest 18-6-301, 302

Child Abuse 18-6-401

Trafficking in Children 18-6-402

Sexual Exploitation of a
Child 18-6-403

Procurement of Child 18-6-404

Child Prostitution 18-7-402 et seq.

WRONGS TO AT RISK ADULTS or JUVENILES

Negligence 18-6.5-103

Assault 18-6.5-103

Robbery 18-6.5-103

WRONGS TO WITNESSES

Intimidating a Witness 18-8-704 & 705

Retaliation/Witness/Victim 18-8-706

CARELESS DRIVING: INJURY OR DEATH 42-4-1402

HIT AND RUN: INJURY OR DEATH 42-4-1601

In addition to the above, no person shall be released under this bond schedule before being seen by a judge if any of the following apply:

1. Any **attempt or conspiracy** to commit any of the above listed crimes.
2. Any new felony charge where the arrestee is on **parole** or on a **supervised probation**.
3. Any crime that is designated as a **domestic violence crime** under C.R.S. 18-6-800.3 (intimate relationship AND act or threatened act of violence, or act intended as coercion, control, punishment, intimidation or revenge).
4. Any crime where the arrestee remains threatening, violent, agitated, or in any other states of mind in which the person, if released, is likely to be a danger to self or others. In the event that an arrestee becomes calm enough to be interviewed, such arrestee shall be interviewed by a bond commissioner even if the person has been placed on a suicide watch or hold. If the arrestee is otherwise eligible for a PR or secured bond, bond shall be set. The arrestee

shall not be released from custody by jail personnel unless the suicide watch or hold has been cleared by a mental health professional or the arrestee has been transported to the hospital and thereafter hospitalized or cleared of any mental health hold.

5. Any warrant out of another state.
6. The arrestee is presently free on another bond of any kind in another criminal action involving a Felony or a Class I Misdemeanor. 16-4-104(2)(a).
7. The arrestee has willfully failed to appear on bond in any case involving a Felony or a Class 1 Misdemeanor charge in the preceding five years. 16-4-104(2)(c).
8. If the arrestee refuses to be fingerprinted or photographed.

(f) Availability of Judges

Whenever a bond commissioner would like judicial approval of certain conditions of bond and the setting of bond does not require court proceedings where the district attorney is present pursuant to C.R.S. 16-4-102, the bond commissioner may obtain the judicial order as follows:*

1. By using the on-call list during evenings and weekends except between 10:00 p.m. and 8:00 a.m.
2. By calling the Intake Division during business hours.
3. By obtaining a judicial order from any judge or magistrate during business hours.
4. By forwarding the request for bond condition to the Intake Division with the bond sheets in the morning.
5. By recommending additional bond conditions during jail advisements.

4. Court Appointed Counsel

If the Public Defender does not enter on behalf of a defendant and qualifies as an indigent person, the court shall appoint counsel as directed by the Office of Alternate Defense Counsel.



Hon. Maria E. Berkenkotter
Chief Judge