

Pre-indictment Arrest Warrant and Bond Hearing

Arrest

1) Warrant request/creation (see sample warrant in presentation)

- SGJ Legal Team and Law Enforcement Officers (LEO) request a warrant number
- SGJ Clerk provides a warrant number
- SGJ Legal Team and LEO create a warrant document
 - Includes Defendant's information, charges for which defendant is being arrested, etc.
- SGJ Legal Team and LEO provide the Fifth Judicial Circuit Chief Administrative Judge directly, or through the SGJ Clerk's office, the warrant to review and sign
 - NOTE: Review and approval of the arrest warrant typically goes through the county magistrate; but, in this case, it goes through SGJ because the individual being arrested is the subject of an ongoing SGJ investigation
- Anything that is part of an ongoing investigation is considered sealed and not public record

2) LEO serve warrant and make arrest

If crime occurred while offender is in prison (e.g., coordinating drug sales), warrant is served on the individual in the prison

Bond Hearing

Step #1: Scheduling Hearing

- SGJ Clerk requests the Fifth Judicial Circuit Chief Administrative Judge set a date for the hearing
- Fifth Judicial Circuit Chief Administrative Judge does the following:
 - (1) sets the date for the hearing (strives to schedule within 48 hours of arrest)
 - (2) coordinates with court administration to obtain a court reporter for the hearing
- SGJ Clerk informs parties about the date/time of hearing, including:
 - SGJ Legal team (Note: Prosecution (i.e., SGJ Legal team) responsible for contacting victims since victims are entitled to appear at the hearing)
 - Defense attorney, if Defendant has one at the time (Public Defender, Rule 608, or privately retained)
 - If high profile case, coordinate with media (note, media typically only know about indictment warrants, because pre-indictment warrants
- SGJ Clerk coordinates with jails (SCDC or any detention facility across the state) for transport of offender or setting up resources for virtual hearing (most hearings occurring virtually still)

Step #2: Hearing

- SGJ Legal Team requests bond amount (i.e., amount defendant must pay to get out of jail until trial)
- Fifth Judicial Circuit Chief Administrative Judge sets bond based on Defendant's (1) risk of flight and (2) danger to community. Options for bond include the following:
 - 10% option - Judge has discretion to allow 10% cash option or no 10% option. If the judge allows the option, the defendant can pay 10% of the bond value in cash and be released (i.e., Bond is \$100,000, Defendant pays \$10,000 in cash)
 - This is separate from any charges a bonding company may charge a defendant
 - PR Bond - Judge has discretion to make it a personal recognizance (PR) bond, which releases the Defendant on their word that they will show back up for trial.
 - Concurrent bond – If Defendant has a county charge that they are already out on bond for, and the SGJ is going to adopt that charge, the Judge may choose not to increase the amount of the bond on which the Defendant is already out. However, the surety bond company is still required to sign the documents for the new, concurrent bond.
 - if defendant does not show up for court, the state can go after them for the full bond amount.
- During the hearing, Fifth Judicial Circuit Chief Administrative Judge typically asks Defendant if they plan to hire an attorney or if they need to be screened for indigent representation
- Defense attorney can make motion to request bond be revisited and lowered (same process as above to schedule this hearing)

Step #3: Post Hearing Paperwork

- SGJ Clerk prepares the same bond paperwork, regardless of whether bond is set or denied. Paperwork includes: (1) Order setting Bond; and (2) Bail form (i.e. Standard General Sessions Court yellow form double sided)
- Fifth Judicial Circuit Chief Administrative Judge signs both documents (if defendant chooses to post bond, others must sign as well, see below)
- If hearing is in person, SGJ Clerk provides hard copy to defendant.
- If hearing is virtual, SGJ clerk sends it to the jail for jail personnel to provide to the defendant.

Bond Hearing (cont.)

Step #4: Defendant determines whether to post bond

- No time limit on when defendant must decide to post bond
- If defendant does not post bond, Defendant remains in jail
- If defendant chooses to post bond:
 - SGJ Clerk obtains Defendant's information (i.e., name, address, telephone number, SS#, name of attorney, if they have one)
 - While the warrant will include some of this information, the defendant's address may change from the time the warrant is issued and the time of arrest and bond hearing. Also, the judge may instruct Defendant to reside at a family member's home until trial.
 - Bond is "posted" at the SGJ Clerk's Office
 - Defendant signs (1) Order setting Bond; and (2) Bail form (i.e. Standard General Sessions Court yellow form double sided)
 - Surety Company (i.e., bail bondsman) signs both documents and posts power (i.e., piece of paper from insurance company that says the amount the surety is posting – no money is ever provided, just a piece of paper that affirms if the defendant does not appear for court, the company has the money available to pay the full bond due). Note: Surety Companies (i.e., bail bondsmen) are regulated through the Department of Insurance.

Step #5: SGJ Clerk Screens Defendant for Indigent Defense Representation (defense attorney)

- As soon after the bond hearing as possible, SGJ Clerk's office screens Defendant to determine if they qualify for indigent representation.
 - To screen, SGJ Clerk has Defendant sign Court Administration's Affidavit of Indigency. SGJ Clerk does not require any additional documentation or proof of indigency (Note: Some counties perform additional research, require pay stubs, etc.)
- SGJ Clerk emails Commission on Indigent Defense (SCCID) to request an attorney for Defendant. If it is a larger case, SGJ Clerk tells SCCID attorneys have already been assigned to other defendants.
 - Pre-indictment situation – No other information is included in SGJ's email.
 - Post-indictment situation – SGJ Clerk includes a copy of the indictment in the email