



The Dreaded Phone Call (or Why Do I Have a Collect Call from Parish Prison?) *by Michael S. Walsh & Kristyn Couvillion*

Phone calls in the middle of the night are rarely good. As a lawyer, you may receive a few urgent nighttime phone calls in your career with a common element: a client, employee or relative is in jail, and the caller is desperate to get them released. When you do receive that call, remind the caller that jails and bonds are not drive-thru fast-food restaurants. A process must be adhered to, which will take time.

This article covers four court systems in the East Baton Rouge area and provides helpful information to obtain your client's release on bond in each of them.¹

If you can answer all of the following questions, however, this article is probably not for you.

- Where is the jail?
- Where is the website with the inmate lookup list?
- How do you know if a bond has been set?
- To which court system will the case go if the Louisiana State Police or Sheriff's Office makes the arrest? What about the city police?

Federal Court

Arrests in the middle of the night are rare for federal court. There are exceptions, such as drug cases and violent felonies. Typically, a federal case begins with a grand jury indictment. The attorney negotiates the subsequent arrest, where the client will surrender to the U.S. Marshals and a magistrate judge will set a bond. As a middle-of-the-night arrest is rare in federal court, it is also rare to get your client out of jail during the night. If you receive a phone call about a nighttime federal court arrest and this is not your area of expertise, it would be to your and your client's best interest to call a criminal defense lawyer who regularly practices in federal court.

19th Judicial District Court

If the East Baton Rouge Parish Sheriff's Office or the Louisiana State Police arrests your client, the case will go to the district court. If city police makes the arrest, it will go to the district court only if it is a felony offense. If it is a misdemeanor offense, the case will go to the Baton Rouge City Court. You can visit <https://www.ebrso.org/Parish-Prison-Inmate-List/PrisonInmateListApp> to view a list of inmates and find out the bond

amount (if it has been set) and which court the case is in.

The 19th Judicial District Court has a Bail Bond Project (225-389-4763) (225-358-4010 Booking Desk) that is under the direction of Gerard Guidry. The Bail Bond Project assists the district court judges in setting bonds. The district court duty judge schedule changes bi-weekly, and the duty judge will be the one to set the bond. Visit <https://ebrclerkofcourt.org/Duty-Court-Schedule> to locate the Criminal Duty Court schedule. Remember, this is different from the Civil Duty Court schedule. The judge that was on duty at the time of the alleged offense is the judge that will be assigned the case. Depending on when the offense was allegedly committed, the duty judge who sets bond may or may not be the judge assigned to the case.

Once your client is booked into Parish Prison (located at 2867 Brigadier General Isaac Smith Ave., across from the airport) and the booking process is complete, a member of the Bail Bond Project will interview the client to make a bond recommendation to the judge. The interview seeks information such as criminal history, circumstances of arrest, financial status and other personal information. When you receive a nighttime phone call about an arrest, the family member or friend will often ask you to go to the prison that night to visit the client. This is not advisable

because it may delay or interfere with the bond recommendation interview. The introduction to this article reminded you that there is a process that must be adhered to. The interview is an essential part of the process. Due to staffing issues at the Parish Prison, the Bail Bond Project sometimes experiences delays in interviewing inmates, so your client's release may be delayed. The staff member that conducts the interview does not have the authority to set bond; the recommendation is just that – a recommendation. Only the judge can set bond. The staff member will email the interview and the affidavit of probable cause to the duty judge to review prior to setting bond, which the judge may do then or wait until the bond hearing (commonly referred to as jail callout) at 1 p.m. the next day. The cutoff for the bond hearing is 2 a.m., so if your client is booked at 4 a.m. Thursday, the bond hearing will be at 1 p.m. Friday.

The judge on duty typically sets bonds a few times per night. If you are considering calling a judge in the middle of the night to set bond, it is wise to think twice. This judge may be the judge who handles the case in its entirety, so you do not want to start off on the wrong foot. If your client is too scared to stay in prison for the night, then an attorney visit to the Parish Prison may be your best option to ease your client's concerns rather than calling a judge in the middle of the night to set bond. But you then run the risk of disrupting the bond interview, ultimately delaying your client's release.

Other factors may delay the actual release of the client, even after bail is posted. Most commonly, the release procedure takes time. The Parish Prison staff must process the bond and paperwork, physically get the client and the client's personal belongings and complete other procedural steps. Conditions of bail may delay release. Common conditions are meeting with a bond supervisor prior to release, signing a protective order and setting up monitoring services.

Louisiana Code of Criminal Procedure article 313 has provisions applicable to all criminal cases. For instance, Paragraph A, commonly referred to as "Gwen's Law," applies only to domestic

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violence cases and permits the court to consider additional factors when setting bond. Additionally, article 313 allows a contradictory bail hearing upon the motion of the prosecuting attorney. Furthermore, Paragraph B, which applies to any criminal case, permits the prosecuting attorney to request, and the judge to order, that the person be detained for a period not to exceed five days, excluding weekends and legal holidays, pending the contradictory hearing. Upon receiving the motion, the judge will consider the motion and affidavit of probable cause to determine if the court needs additional evidence, in which case the judge will either set the motion for contradictory hearing, or the judge will set bond during jail callout and notify the prosecutor.

City Court

The Baton Rouge Police Department rarely books anyone into the Parish Prison. If someone is booked into the Parish Prison on a City Court charge, it is likely due to driving while intoxicated. Due to the COVID-19 pandemic, the only misdemeanor cases currently being booked into the Parish Prison are domestic abuse cases. That may change at any time as COVID procedures continue to change. City Court Bonds are usually preset by schedule, after a person is booked into the Parish Prison.

East Baton Rouge Juvenile Court

Cases involving minors (17 or younger) are generally processed through the Juvenile Court system. The Sheriff's Office and the Baton Rouge Police will

often release the juvenile to the custody of the parents, provided that the parents sign an agreement stating that the child will remain out of trouble and appear at the court date. If the juvenile is held over, a detention hearing will be held the following court day at noon, but it is advisable that you call the court to verify when the hearing will be held. Terms and conditions of bail will be set at the hearing. The parents must attend the hearing.

Types of Bonds and Their Requirements

Commercial Surety Bond and Surety Bond

A commercial surety bond is the equivalent of a cash bond, written with an insurance company as the surety. It requires paying the bondsperson 12% of the bond amount in exchange for the company guaranteeing the entire amount of the bond to the court. This fee to the bondsperson is non-refundable. Even at the disposition of the case, the bondsperson retains 12% of the bond.

A personal surety is a Louisiana resident (who is not an attorney, judge or ministerial officer of the court—remember Louisiana Code of Criminal Procedure art. 313) who is willing to put up the 12% of the bond for you. The personal surety also guarantees the full amount of the bond.

If the accused does not appear for court, the surety has 180 days to cause the defendant to return to court before the bondsperson or personal surety is obligated to pay the full amount of the bond.

Property Bond

Property bonds involve someone, not a lawyer, judge or officer of the court, to essentially mortgage a piece of immovable property to ensure that the accused attends all future court appearances. The process to obtain a property bond can be time-consuming. All steps in the process must be completed on the same day, so you should begin the process no later than noon. You must obtain an Assessment Certificate at the Assessor's Office at City Hall.

You must bring this certificate to the Bail Bond Project (third floor of the 19th JDC) to approve and stamp your certificate. Then you must take the certificate to the

Mortgage Department of the Clerk of Court located in the basement of City Hall to request a Mortgage Certificate and Conveyance Certificate. After that, you must return to the Bail Bond Project with your certificates to determine if the equity in the property is equal to or more than the amount of the bond. The Bail Bond Project will assist in drawing up the paperwork and presenting it to the judge. If signed, you will get a copy of the property bond, which you must record. Once recorded, you must take the documents to the Parish Prison. Keep in mind that fees will apply to obtain the certificates and recordation. All those who have an interest in the property must be present throughout this process. Bring at least \$300 in cash to cover these fees.

You may use the property to post bond only to the extent that you have equity in the property. If you have only \$50,000 of equity in the property but the bond is \$100,000, the property can be used to guarantee only \$50,000 of the bond. You can use a combination of bonds though. So, you can use a commercial surety, personal surety or another property bond to secure the remainder.

Remember that lawyers, judges or ministerial officers of the court cannot be a surety on any kind of bond, not even for a family member. This includes any immovable property that these individuals have an interest in. For example, if an attorney co-owns a house with a spouse, sibling or other individual, that property cannot be posted as bond.

Cash Bond

The accused or another eligible person may post the entire amount of the bond to secure release.

Sign Out Bond

A sign out bond, or release on recognizance, is when the judge authorizes the individual or another responsible person to sign a document like a promissory note to guarantee that the client will appear at future court appearances. Sometimes the judge may allow the client to sign himself out, but often a third party will need to be involved.

Sheriff's Fee

Everyone who is booked into the East Baton Rouge Parish Prison must pay a fee. If your case is in City Court and a bond is set, you must secure the bond and pay to the sheriff's office two fees totaling \$65. If it is a district court case, you will pay a \$30 fee to the Sheriff's Office. These fees must be paid via a money order (but

not a Western Union money order). If you are successful in getting your client released on bond in the middle of the night, you may run into an unexpected hurdle—where do you get a money order in the middle of the night? Your bank probably is not open in the middle of the night, but many convenience stores are and do issue money orders.

Attorney Visits

Interview rooms are open for use at the Parish Prison. All attorneys and others approved to conduct interviews and evaluations of inmates will be allowed to do so seven days a week from 8 to 10 a.m. and 1 to 4 p.m. Interview rooms will be approved on a first-come, first-served basis. Attorneys visiting their client at the Parish Prison must have their bar card and ID card. Some readers may think, "Well, of course," but many lawyers do not have a bar card. The Parish Prison will not accept a business card, firm letterhead, an engagement letter or other informal "proof" that you are an attorney. Visit <https://www.lsb.org/Members/MemberCards.aspx> to obtain your bar card.

When in doubt, call someone who does this type of work who can talk you through it.

¹ This article is limited to the East Baton Rouge Parish court systems. Other parishes have their own systems and procedures that may differ from the contents of this article.

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