



MAGISTRATION SCENARIOS

Scenario 1

- Defendant is arrested by a police officer on patrol who observed him trying to break into a vacant house at 2:00 a.m. Defendant is charged with burglary of a habitation, a second degree felony. Defendant resides in your town and has no prior criminal record.
- Describe step by step how you would magistrate this defendant.
 - See: Magistration Bench Cards 1 – 6 and 8.
- Would you require the defendant to post a surety bond or a personal bond?

Scenario 2

- Defendant is arrested on a warrant signed by a district judge after the defendant was indicted for possession of a controlled substance, a 3d degree felony. The district judge put a notation stating “\$10,000 surety bond” on the warrant.
 - Do you need to find probable cause for this arrest?
 - May you set a different bail amount?
 - May you release him on a personal bond with bail set at \$10,000?
 - See Magistration Bench Cards 1 – 6 and 8.

Scenario 3

- Defendant is arrested on a warrant for a traffic offense (speeding, a Class C misdemeanor) for which he failed to appear. At the time of the arrest the officer observed a pound of cocaine on the front seat of defendant's car and charged him with possession of a controlled substance, a first degree felony.
 - Are you required at magistration to ask the defendant if he wants to request court appointed counsel?
 - If he says yes, describe what you are required to do and when.
 - Is it okay to have the jail staff assist him in filling out the forms?
 - See Magistration Bench Card 4.

Scenario 4

- You go to magistrate at the jail. Before you magistrate you ask the jail staff if anyone does not speak English. They say yes: two defendants speaks only Spanish and one defendant speaks only Urdu.
 - How do you handle this situation?
 - How do you help the Urdu speaking defendant fill out the form requesting appointment of counsel if necessary?
 - See Magistration Bench Card 3.

Scenario 5

- The Urdu speaking defendant is from India.
 - Are you required to notify the consulate of India of his arrest?
 - Even if India is not a mandatory reporting country, are you required to notify the consulate if the defendant says he wants the Indian consulate to be notified?
 - If so, how do you do this?
 - See Magistration Bench Card 2.

Scenario 6

- Defendant is arrested for DWI with Child Passenger. She does not have any prior DWIs or a criminal record.
 - What bond conditions should you require?
 - What if the defendant says the car she was driving was a friend's and she does not own a car?
 - How do you make sure the defendant will comply with the bond conditions you impose?
 - What should you do if you are notified that the defendant is not complying with the bond conditions?
 - See Magistration Bench Card 9.

Scenario 7

- Defendant is charged with assault against a family member (assault family violence), a Class A misdemeanor.
 - What bond conditions should you require?
 - Should you delay the release of the defendant? If so, for how long?
 - How do you make sure the defendant will comply with the bond conditions you impose?
 - Should you also order an EPO?
 - When are you required to order an EPO?
 - If you order an EPO should you modify the bond condition?
 - See Magistration Bench Cards 10 and 11

Scenario 8

- Defendant is arrested on a *capias* for failure to appear for a court hearing on a charge of felony burglary. The *capias* says “no bond.”
 - What kind of proceeding is this?
 - Should you give the defendant the Art. 15.17 admonishments?
 - Should you ask the defendant if he wants to request court appointed counsel?
 - May you set bail and release the defendant on condition that he appear for future court hearings?
 - See Magistration Bench Card 13.

Scenario 9

- Defendant is arrested on a warrant requested by his surety who wants to surrender the bond and be released from his obligations on the bond.
- May you require the defendant to post a cash bond to be released from custody?
- If the surety is released from the bond, may the defendant be released if he posts a new surety bond using a new surety?
 - Magistration Bench Card 14

Scenario 10

- Defendant is arrested on a motion to adjudicate. The warrant says “\$5,000 cash bond only.”
 - What is a motion to adjudicate?
 - May you change the bail amount?
 - May you release the defendant on a surety bond?
 - Should you give the Art. 15.17 admonishments?
 - See Magistration Bench Card 17.

Scenario 11

- Defendant is arrested for a Class B misdemeanor on a warrant issued by the neighboring county. Defendant requests appointment of counsel. You set bail at \$3,000 with a surety bond but after 14 days defendant is still in jail and he has not been picked up by the neighboring county.
 - What do you have to do next?
 - Where do the appointment of counsel forms have to be sent?
 - See Magistration Bench Card 19.

Scenario 12

- Defendant is arrested on a warrant for speeding and violate promise to appear, both Class C misdemeanors, issued by a neighboring county. At magistration you ask the defendant if he wishes to enter a plea and he responds, “guilty.”
 - What should you do next?
 - If the warrant is issued by a judge in your own county, can you do the same thing as for an out of county warrant?
 - See Magistration Bench Card 21.

Scenario 13

- Defendant is arrested on a *capias pro fine* issued by another justice of the peace in your county. The defendant was convicted of speeding and fine and court costs were assessed in the amount of \$325.00.
 - What are your options?
 - What if the defendant says he can't pay the fine and costs?
 - What should you do if the *capias pro fine* was issued by a municipal court judge in your county?
 - See Magistration Bench Card 20.

Scenario 14

- You magistrate a defendant who is charged with public indecency, a Class B misdemeanor. The jail staff hands you an Inmate Mental Condition Report stating they believe the defendant may be suffering from a mental illness.
 - What steps do you need to take?
 - Under what circumstances are you required to release the defendant on a personal bond?
 - See Magistration Bench Card 12.

Questions?

Resources

- TJCTC Magistration Deskbook
- Art. 15.17 hearing flowchart
- Chapters 14, 15 & 17 of the Code of Criminal Procedure (CCP)
- <http://www.tjctc.org/tjctc-resources/forms.html>
- “Bail and Bonds” by Randy Sarosdy, Summer 2017 TJCTC Newsletter
- “Setting Bail Amounts” by Rebecca Glisan, Winter 2017 TJCTC Newsletter
- www.arnoldfoundation.org – Risk Assessment Information