

BAIL ENFORCEMENT/FUGITIVE RECOVERY© TRAINING COURSES

How and Why Fugitive Recovery is Required

The Bail Enforcement/Fugitive Recovery Training Series is comprised of four courses, which will build upon each other.

This course discusses how and why fugitive recovery is required. The student will learn about the file, how to review the information gathered, how to gather additional information and how to verify the information obtained. Also discussed is how to develop relationships and speak to those closest to the fugitive to develop new leads.

Course objectives will touch on the following areas:

- Bail application and file
- How to obtain additional information
- Use of social media
- Putting the pieces together
- What happens after the arrest?

Bail Application and File

At the inception of the bail transaction is a gathering of information. Even what may appear to be an irrelevant detail may prove at a later date to provide critical intel on a subject. Arguably, the most comprehensive document the agency must obtain is the bail application. Some agencies use one or two pages, while others use more to gain as much insight into the defendant as possible.

Bail applications are provided by the sureties and contain many background questions. However, agencies can and do expand on these applications and gather even more information. In some circumstances there are no documents contained in the file beyond the actual bail bond posted on the defendant's behalf.

Bail enforcement agents can receive a file that can be either a bail surety surrender or a failure to appear. Each of these situations will be discussed and each has its own set of rules that will accomplish the same goal. The goal is to return the defendant to custody.

A surety surrender results when the defendant has created a situation, by either act or omission, that substantially increases the risk. The risk is the penal sum of the bond. There are several reasons that can create this type of situation.

- *Lying on the bail application.* Once an application is taken for a surety bail bond every effort must be made to either verify or corroborate the information provided. It is the agent's or agency's determination what constitutes a "lie." It is important to distinguish between important and not so important information. For example, if the bail application indicates that a defendant is a Sultan of Nejd and it is later learned that the defendant is a white guy born and raised in Des Moines, Iowa who doesn't have a passport or has ever left the country, that could be a problem.

If the bail application indicates the defendant is employed at a major corporation and the agency later learns that there is no such corporation, that could be a problem. These are just a couple of factors that could terminate (breach) a contract of bail.

- *The co-signer.* The co-signer is a critical component to the bail bond transaction. Some agencies require a co-signer, and some do not. The benefit of a co-signer is that there is a stationary person (hopefully a relative), who is stable and can vouch for the defendant. There can be situations that may cause great concern to the co-signer. For example: the co-signer signs for the defendant and the defendant is released. The defendant continues to break the law through his/her actions and the co-signer asks to be removed from liability.

From this point there are several options available to the agent or agency:

- Ignore the request. This is not a wise or prudent strategy. If the situation were to escalate and the bond forfeited, the co-signer will be less than likely to help return the client. If the matter went before a judge, the co-signer could produce documentation showing their request to be removed from liability and that the request was ignored. The judge could remove them from liability without the agent or agency's consent, which would leave the agent and agency in a vulnerable situation.
 - Accept the request and ask that the co-signer or defendant bring another co-signer forward to replace the existing co-signer. This will relieve the original co-signer of liability.
 - Remove the co-signer requirement altogether. This may leave the agent, agency and surety with a higher risk.
- *Re-arrest of the defendant.* A re-arrest of the defendant can spell trouble for the current bail bond. There have been times when a defendant has been re-arrested for the same underlying charge that the agent or agency bonded him/her originally. This most likely is a mistake and a result of the paperwork not being updated. If the defendant has been re-arrested and there are new charges, that could indeed present a problem. The major reason is two-fold: is the defendant maintaining the same lifestyle that created the original problem or is this a culmination of charges previous to when the agency bailed the defendant out (indictment)? Depending upon the new bail amount and the circumstances that surround the re-arrest, it will directly affect the amount of risk already undertaken by the agent, agency and surety.

The bail application can be a treasure trove of information. On a standard bail application there are many questions asked not only of the defendant, but questions asked of the co-signer. Some of these questions include the name of a spouse, spouse's employment, family members, friends, height, weight, vehicles, etc. Bail enforcement agents must find out if the information has been verified. Discovering exactly where one is in the process will be crucial to prevent spending time on facts already established.

The entire bail file should contain several documents. The document that contains the most information is the bail application. Meticulous notes can save valuable time. Establishing timelines are important: where the defendant was when bonded and where they've gone since bonding to help determine approximate location. Most fugitives remain well within their circle of family and friends. With the vast variety of technology, it is terribly hard to hide for any length of time.

Once the file is completed, the information should be verified and corroborated:

- **Current/prior address:** Google the address, which may or may not yield results. If the defendant is a homeowner and has provided an address, it can be easily ascertained by a simple search. A more in-depth search can be done with an address or APN number and checking with the county where the property is located. The landowner's name will also be on the tax rolls.
- **SSN:** It can be difficult to verify a social security number. Many agents ask for a copy of a social security card, paystub, tax return, w-2 etc. to verify this. If this hasn't been done, a search can be run on the social security death index. This can rule out use of a deceased persons social and will lend to the credibility of the number.
- **DOB:** Having the date of birth is important, particularly if the skip has a common last name or a woman has taken a married name. Simply taking a copy of an ID or driver's license at the inception of the bail transaction can gain this information.
- **Vehicles:** This information will be critical and should indicate the type of car driven, make, model, year and any other distinguishing factors. Some defendants have been identified and found by posting a picture on social media that had distinct characteristics of the vehicle, leading to a capture. There are also license plate recognition software companies that can aid in finding a vehicle if the license plate number is known. Photos of all vehicles driven should be kept in the bail file.
- **Employment:** Employment can be somewhat easy to verify. One could drive by the defendant's job location to see if their vehicle is there or call the employer to verify employment.
- **References:** References are critical. They show ties to the community and who knows and can vouch for the defendant.
- **Indemnitors:** Someone who provides indemnity, who is bound by an indemnity contract and who agrees to protect another upon the occurrence of a loss. An indemnitor can be a relative or friend who agrees to act as a guarantee on a bail contract to protect the surety from losses.

How to Obtain Additional Information

- **Databases:** TLO, MasterFiles, Captira and Locate Plus are just a few of the professional pay per-use or subscription services that can provide a tremendous amount of information on a defendant, such as address history, assets, relatives, licenses, criminal history and community ties. VineLink is a public database that is very informative and indicates if a defendant is in custody locally; one can also check the federal inmate locator to see if a defendant is in federal custody.
- **Indemnitors:** Nothing prevents a bail enforcement agent from obtaining background information on the indemnitors who have signed a bail contract for the defendant.
- **Family:** many of these databases will identify family members. Some may share the same last name. Some names may be hyphenated, and some changed last names completely (through marriage etc.)
- **Informants:** tips for a reward can be offered for information that leads to a capture.

Use of Social Media

In 2017, 81 percent of the population in the United States had a social networking profile, representing a three percent growth compared to the previous year (<https://www.statista.com>). In 2020, the percentage is even higher as more individuals visit social media platforms, which are numerous and frequently display images of the defendant and their associates. Many of these sites have time, date and location stamps that allows one to see who the defendant is interacting with and where.

Putting the pieces together:

Gathering all of the information required on a fugitive can take hours or even days cross-referencing information and trying to pin down the location of the fugitive. Even after that, one may have to spend hours, days or weeks conducting field interviews of neighbors or local businesses in the attempt to locate the fugitive.

It is very important to check with the court to see if a warrant has already been served for the fugitive. A re-arrest may already have occurred on the warrant with the fugitive back in custody. The fugitive may have posted a new bond, picked up a new case or even turned themselves to law enforcement.

All the preparation and planning that is made will lead to the actual attempt at making the arrest of a bail fugitive. The location and environment of a fugitive is probably the most important factor to consider when preparing to attempt an arrest. If the bail fugitive faces serious charges, that could mean they will be facing many years in state prison.

If local law enforcement is willing to “standby” during the arrest, the bail enforcement agent should allow them to do so as their presence may help prevent any violence from beginning.

Under United States Code Title 42, Section 1983:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

To bring any suit under the statute, the person who is deprived of their civil rights must prove all three conditions.

- He/she was deprived of a specific right, privilege or immunity secured by the Constitution or laws of the United States;
- The alleged deprivation was committed under color of state law; and
- The deprivation was the proximate cause of injuries suffered by the plaintiff.

Local law enforcement should always be notified in advance of the planned bail fugitive recovery operation in their jurisdiction.

What Happens After the Arrest?

If there are any injuries to either the bail fugitive or bail enforcement team member, they should be provided with proper medical treatment immediately. Most police and sheriff departments will not accept an injured prisoner without having a medical clearance from a paramedic, doctor or hospital.

The bail enforcement agent could be liable for the medical costs for a fugitive if it is determined that they unnecessarily caused the injuries. The few laws that protect law enforcement officers against false arrest and use of force do not apply to bail enforcement agents.