



STATE OF SOUTH DAKOTA
THIRD JUDICIAL CIRCUIT COURT

314 Sixth Avenue, Brookings, South Dakota 57006

Circuit Judges

Dawn M. Elshere
Carmen A. Means
Patrick T. Pardy
Kent A. Shelton
Robert L. Spears
Gregory J. Stoltenburg

Magistrate Judges

Abigail A. Howard
Patrick J. McCann

Counties

*Beadle, Brookings, Clark
Codington, Deuel, Grant
Hamlin, Hand, Jerauld
Kingsbury, Lake, Miner
Moody and Sanborn*

THIRD CIRCUIT ARREST AND RELEASE PROCEDURE

IT IS HEREBY ORDERED that the following **Third Circuit Arrest and Release Procedure** shall be effective November 1, 2018.

SETTING BOND – Bond is set by calling a Judge between 8:00 a.m. and 9:00 p.m. utilizing the **3rd Circuit Bond Call Schedule**. After 9:00 p.m. bond shall be set the following morning at 8:00 a.m. or after, pursuant to the **3rd Circuit Bond Call Schedule**.

Call a Judge to set bond for the following pursuant to above paragraph:

1. **ALL FELONIES**
2. **Class I MISDEMEANORS** (only those listed below):
 - a. **SIMPLE ASSAULT**
 - b. **VIOLATION OF PROTECTION ORDER**
 - c. **VIOLATION OF CONDITIONAL BOND/NO CONTACT ORDER**
 - d. **DUI 1st and 2nd Offense** – do **not** contact the Judge, but if suspected to still be under the influence, release to a responsible adult. If clearly intoxicated or incapacitated to the extent that he/she is a danger to the health or safety of him/herself or others, hold in protective custody until the danger no longer exists. Follow the procedure set forth in SDCL 34-20A-55.

Unless specifically listed above, a personal recognizance bond is authorized for all Class I Misdemeanors. Law enforcement cannot change these terms by adding or removing any terms without authorization of a Judge. If there are exceptional circumstances which would bear on the amount or conditions of a bond to be set, such as indications of flight risk or danger to others or the community, the arresting officer should contact the Judge pursuant to the **3rd Circuit Bond Call Schedule** to set the bond and explain the exceptional circumstances.

3. **For all CLASS II MISDEMEANORS**, bond shall be set at personal recognizance.

JUVENILES. For juveniles under the age of 18, the arresting officer must follow intake procedures below for Misdemeanors and Felonies.

For in-state juveniles, release the juvenile to a parent or guardian or detain per Risk Assessment Instrument (RAI) decisions. If extenuating circumstances exist, law enforcement may call the Judge in your County in charge of Juveniles to advise them of the RAI score and decision and request a judicial override. For all out-of-state juveniles, call the Judge in charge of Juveniles in your County or an intake officer.

WARRANTLESS ARRESTS

1. **PROBABLE CAUSE: If a person is not released on bond, the officer must provide a probable cause statement via email to a Judge pursuant to the 3rd Circuit Bond Call Schedule, within 48 hours.** The Clerk of Courts, States Attorney and Detention Center shall be cc'd on the email. The Judge will "reply all" via email as to a finding of probable cause or not. The clerk shall file the email in the court record.

If probable cause is not shown within 48 hours, the jail has no legal authority to hold a defendant and the jail will release the defendant from custody.

2. **INITIAL APPEARANCE / BOND HEARING:** The State must file a complaint within **two business days** after a warrantless arrest has been made. If a complaint has not been filed within such time, the **arrested person shall be discharged** and any bond and conditions are exonerated.

ISSUANCE OF WARRANTS – No arrest warrants are to be issued without a showing of probable cause. A showing of probable cause will be made by affidavit at the time the warrant is requested. Probable cause showing can be made by sworn complaint if sufficiently detailed.

REQUESTS FOR SEARCH WARRANTS PROCESS HAS NOT CHANGED – Search warrants may be signed by any available Judge during regular business hours. For afterhours search warrants (between 5:00 PM and 8:00 AM) and on weekends, contact the on-call judge at 605-688-6143.



Dawn A. Elshere, Circuit Court Judge



Abigail A. Howard, Magistrate Judge



Patrick J. McCann, Magistrate Judge



Carmen A. Means, Circuit Court Judge



Patrick T. Pardy, Circuit Court Judge



Kent A. Shelton, Circuit Court Judge



Robert L. Spears, Circuit Court Judge



Gregory J. Stoltenburg, Presiding Judge