THE CRIMINAL COURT FOR DAVIDSON COUNTY

LOCAL RULES OF PRACTICE FOR BAIL BONDS

AS AMENDED JULY 1, 2008

RULE 1 GENERAL

These Rules shall be applicable in the General Sessions Courts of Davidson County and all Courts of record in Davidson County exercising criminal court jurisdiction.

RULE 2 PETITIONS FOR APPROVAL OF NEW COMPANY

A. The Judges of the Criminal Court sitting *en banc* shall approve each company who petitions the Court for permission to write bonds in Davidson County. All petitions for approval of a new bonding company must be in a form similar to the one provided by the Criminal Court Clerk of Davidson County, Tennessee. The petition shall contain the following information:

1. The business name under which the new company will be operating, the street address, and the business telephone number for the bonding company office which shall be located in Davidson County.
2. A copy of the business license issued for the bonding company.
3. A copy of a complete drug screen of the owner and each prospective agent, which has been performed by a licensed medical facility, and which has been performed within 48 hours of the date of filing the petition for permission to write bonds.
4. A copy of all organizational documents (e.g., corporate charter, partnership agreement) and all other agreements or documents pertaining to the identity of the owners and interest holders in the said company, the distribution of profits from the said company, the source of all funds used to establish the company, and the names of those persons who will be personally liable for forfeiture judgments.
5. A statement of whether the company or any of its owners, shareholders, or partners write bonds in any other jurisdiction. If such company or persons do write bonds in other jurisdictions, the application shall identify those jurisdictions and attach a listing identifying any surety posted with that jurisdiction, a copy of the last semi-annual reports filed with the said jurisdictions along with a listing of all pending conditional forfeitures and final forfeitures.
6. Identify the funds and source of said funds to be filed with the Clerk to establish the bonding capacity.
7. For all persons identified in paragraph 4 above attach a sworn statement from each individual stating the following:

Rule 2 cont'd.

a. A list of all prior criminal charges, whether resulting in a conviction or not, along with the disposition of the charge and the jurisdiction, as well as all other information required by TCA §40-11-317.
b. Describe all relations to any other owner, interest holder or agent of a bail bond company authorized to do business in Davidson County.
c. A statement as to whether such person has ever been an owner, interest holder or agent for any other bail bond company in this state or any other state.
d. A statement as to whether such person is related, by blood or marriage, to any person who works for the Clerk, Davidson County Criminal Court or for the Sheriff of Davidson County.

8. A copy of the proposed bail bond contract shall be attached.
9. A statement that the officers/owners of the bonding company and its proposed agents have read and are aware of the requirements of TCA §40-11-301, *et seq.* and §40-11-401, *et seq.*, pertaining to the Rules Governing Professional Bondsmen and Requirements for Continuing Education, and the Rules of this Court governing bonding companies.

B. All petitions for approval of a new company shall be served upon the District Attorney General at least two (2) weeks prior to the hearing on the petition and heard by the *en banc* Criminal Court. The District Attorney General shall conduct a criminal history and background investigation on the owner of the company and its agents. The results of the background investigation shall be furnished to Court on or before the date of the *en banc* hearing. The District Attorney General shall be present at such hearing and represent the State.

C. Upon approval, a Judge of the Criminal Court shall be designated as the supervising Judge for said bonding company. A petition for approval of future agents shall be made before the supervising Judge. Any matter presented to the supervising Judge may be referred by said Judge to the entire Court.

RULE 3 COLLATERAL

A. Effective September 1, 1999, any person or company filing a petition for approval for a professional bail bond company in Davidson County is required to post a minimum of $75,000.00 in cash with the Criminal Court Clerk as security for bonds written. Said funds shall be deposited in one of the following methods:
1. A Certificate of Deposit in the sum of not less than Seventy Five Thousand Dollars ($75,000) in the joint names of said Bonding Company and the Criminal Court Clerk of Nashville-Davidson County, or
2. An irrevocable letter of credit in the amount of not less than Seventy Five

Rule 3, cont'd.

Thousand Dollars ($75,000) from any federally insured financial institution located within the Twentieth Judicial District or any location approved by the Court, or

3. A cash deposit of not less than Seventy Five Thousand Dollars ($75,000) with the Criminal Court Clerk.

B. No real property collateral will be accepted by the Court.

C. There must be prior written approval by the supervising Judge, after notice to the District Attorney General, before an approved bonding company will be allowed to increase its bonding capacity.

D. Any bonding company approved by the Court after September 1, 1999, may write total bonds in an amount equal to ten (10) times the amount of cash security posted with the Criminal Court Clerk. No bonding company shall be allowed to write any one single or blanket bond in excess of twenty (20) percent of its available bonding capacity as determined by the clerk on a weekly basis.

E. Any bonding company who was approved by this Court prior to September 1, 1999, may write bonds ten (10) times the amount of cash security posted with the Court or ten (10) times the assessed value of the real property (as determined by the Metropolitan Nashville Davidson County Tax Assessor) posted as collateral prior to September 1, 1999 with the Clerk. Any increase in bonding capacity by a bonding company who was approved prior to September 1, 1999 shall be made upon approval by the supervising Judge, upon notice to the District Attorney General, by cash deposit and the new collateral posted shall increase the company's capacity by an eight to one ratio. No bonding company approved prior to September 1, 1999 shall be allowed after December 1, 1999 to write any one single or blanket bond in excess of twenty (20) percent of its available bonding capacity as determined by the clerk on a weekly basis.

F. Collateral posted as security with the Clerk may not be withdrawn or applied to satisfy a forfeiture judgment except upon notice to the District Attorney General and Order of the Court.

RULE 4 FORFEITURES

A. A bonding company shall not be allowed total forfeitures in the Criminal Courts and the General Sessions Court to exceed more than fifty (50) percent of the amount of collateral posted with the Clerk. Bonding companies approved before September 1, 1999 shall be in compliance with this Rule by February 1, 2000.

B. Bonding companies which have exceeded their forfeiture limit at the time of the monthly report prepared by the Clerk shall be automatically suspended, be removed by the Clerk from the approved list, and the Clerk shall immediately notify the supervising Judge and District Attorney General. The bonding company shall not be allowed to write any additional bail bonds until the forfeitures are again within the company's allowable limits and upon Order from the supervising Judge.

Rule 4 cont'd.

C. The Court shall have the authority to charge a penalty not to exceed One Hundred Dollars ($100.00), together with the cost as a result of a conditional forfeit, to set aside a forfeit.

RULE 5 COMPANY CHANGES

A. Any changes to a bonding company's address or telephone number from that noted in the original petition must be sent in writing to the Criminal Court Clerk.

B. Any changes to a bonding company's name, ownership, or agents as submitted in the original petition must be submitted in writing and approved by order of the supervising Judge.

C. Any request for changes to an approved bonding company's bonding capacity or collateral shall be submitted to the supervising Judge with notice to the District Attorney General.

D. Any material changes to the financial statements submitted to the Court must be corrected and filed with the Clerk.

E. Any changes in the employment status of agents must be submitted in writing within ten (10) days of said change and be approved by the supervising judge.

RULE 6 ACTIVITIES OF BAIL AGENTS

A. All agents must wear photo identification badges issued by the Criminal Court Clerk while performing their duties as a bail agent.

B. It is the duty of each agent to surrender his/her photo identification badge upon termination of their employment, and it is the responsibility of the owner of the company, or his designee, to retrieve and return to the Criminal Court Clerk said photo identification badge.

C. As provided by TCA §40-11-126, no bondsman or bonding company shall solicit business in any place where prisoners are confined. Such places include the Metropolitan Courthouse, Criminal Justice Center, and the areas on Second Avenue marked by signage reading, "Bail Bond Solicitation Forbidden". No bonding company employee or agent shall initiate contact with a defendant or their family in order to obtain their business. Contact with a defendant who is a potential client will be allowed only after the bonding company has been contacted by the defendant or someone authorized to act on their behalf. All agents or employees of a bonding company shall conduct themselves in accordance with all rules and orders of the Sheriff and Criminal Courts of Davidson County while performing required duties within such buildings. Penalty for first violation of this provision is a suspension of not less than ninety (90) days. Penalty for second violation of this provision is a suspension of not less than six (6) months and the offender must repetition the Court for reinstatement. Penalty for a reoccurring violation of this provision is termination of employment.

Rule 6 cont'd.

D. All agents shall be subject to random drug screens as requested by the Court, the cost of said drug screens shall be the responsibility of said agent. All urine samples shall be split to provide for confirmation testing, and should an agent test positive for any illegal substance, he/she shall have forty-eight (48) hours to request that the remaining sample be forwarded to a certified laboratory for retesting at the agent's expense. Should an agent test positive for any illegal substance he/she shall immediately be suspended pending a show cause hearing before the supervising Court. On the first occasion that any agent tests positive for any illegal substance, he/she shall be suspended for a minimum of six (6) months, or until he/she has completed a drug treatment program, and said agent must petition the Court for reinstatement. The credentials and/or qualifications of any treatment program shall be submitted to the Criminal Court Clerk for approval. Any agent that tests positive for any illegal substance on a second drug screen shall be terminated and said agent shall not be subject to reinstatement.

E. A bonding company shall notify the defendant/principal of each court appearance and provide a representative to appear as required in each court. Such representative shall be readily available as needed by a court whenever a defendant fails to appear at the call of the docket.

F. Each agent will be responsible for providing a copy of their certificate of compliance for their continuing education credits in compliance with T.C.A. §40-11-401, et seq. to the Criminal Court Clerk annually. This notice must be provided on or before January 1, 2000, and each year thereafter.

RULE 7 PREMIUMS

A. As provided by TCA §40-11-126, no bondsman shall accept anything of value from a principal or anyone acting on their behalf except the authorized premium and initiation fee as set out in TCA §40-11-316 and as described in the bond contract. If any property other than cash (or negotiable instrument) is accepted for the premium, the agent shall notify the supervising Judge and the District Attorney General in writing. All funds or negotiable instruments accepted in payment or in satisfaction of the premium and the initiation fee shall be recorded and itemized by the bonding company. A copy of said record documenting the premium and initiation fee received shall be provided to the defendant, or the agent acting in the defendant's behalf, and shall be maintained as a part of the ordinary daily business of said company. If funds or negotiable instruments are accepted as collateral, the bonding company shall: (1) deposit such collateral into a separate trust account pending its redemption, (2) shall identify the account or principal to which the collateral applies, and (3) shall provide the person providing the collateral with the identity of the institution in which the collateral is held. In the event that a bail bonding company receives funds for a premium or initiation fee and elects not to post the bond for the

Rule 7 cont'd.

defendant/principal then any funds received shall be immediately returned to the defendant or the person acting on the defendant's behalf.

B. Every bondsman and/or agent must use a duplicate receipt book to record all payments for premiums. A copy of the receipt must be given to the defendant or the person acting on their behalf. Receipts must include:
   1. Specific description of all property, including cash or checks, received from the defendant or someone acting on the defendant's behalf, and
   2. Signature of the defendant or the person acting on his/her behalf tendering the said funds.

C. No bond in the amount of $75,000.00 or more shall be made without a hearing before the court wherein said case is pending, and notice by the bonding company to the District Attorney General, to determine compliance with these rules and the provisions of TCA §39-11-715 pertaining to the source of said bond. Such hearings shall be conducted in the General Sessions Court or Criminal Court in which the case is pending.

D. Bonding companies are prohibited from making credit bonds on cases where the total bonds for any defendant exceed $25,000.00. No funds or partial payment in satisfaction of the premium may be received following release of the defendant/principal from custody for bonds for any single defendant in excess of $25,000.00, except as authorized by T.C.A. 40-11-316 or other applicable law.

E. No bond may be secured, guaranteed, or otherwise indemnified by a contract which purports to be a promissory note, indemnification contract, hold harmless agreement, or guaranty from a company, bondsman not approved as a bonding company by this Court.

RULE 8 REPORTS AND REQUIRED RECORDS

A. It shall be the responsibility of the bonding company that all bonds shall be fully completed upon the release from custody of the defendant/principal. Bail bond contracts shall:
   1. Have the name, address and zip code number of the defendant legibly printed thereon,
   2. Be signed by the agent making said bond,
   3. Have the name of the bonding company boldly and legibly stamped or printed thereon,
   4. Identify the property used to pay the premium and initiation fee as well as any other property received as collateral for said bond, and
   5. Have a copy of a photo identification of all persons (except the defendant/principal) delivering such premiums, fees or collateral to the agent if the bond is $75,000 or above.

Rule 8 cont'd.

B. Any bonding company authorized by the Davidson County Criminal Court shall file with the Criminal Court Clerk, with a copy to the Trial Court Administrator, a semi-annual financial report pursuant to TCA §40-11-303. Such reports shall include, but not be limited to, a listing of:
   1. All current, active qualified bonding agents approved for said company;
   2. Any outstanding civil performance or costs bonds,
   3. All persons having financial or managerial interest in a bonding company must be identified annually, and
   4. A certificate of compliance for the continuing education credits for each agent must be furnished annually.

C. Upon the failure of any company to file this report, or any other record or document required by statute or these local rules, the Criminal Court Clerk shall notify the supervising Judge who shall suspend and remove the company from the approved list. In such an event, the company shall not be allowed to write any bonds until such time as all the requirements are met and there has been approval, in writing, from the supervising Judge. In the event the bonding company disputes the suspension, it may petition the Court to reconsider the suspension.

RULE 9 SUSPENSION OF BONDING COMPANY OR AGENTS

A. Every bonding company acts as an agent of the Court and the conduct of the bonding company constitutes an integral part of the operation of the Court. The Court may impose any limits or conditions necessary to insure the professional standing and reliability of the bonding company. Such measures, if any, shall be made in the public interest to avoid a conflict of interest or an appearance of impropriety on the part of the bonding company. Pursuant to the provisions of TCA §40-11-125 and TCA §40-11-126 the Court may take appropriate disciplinary action including the withholding, suspension or termination of the approval to do business if it appears to the Court that it is in the public interest to take such action. For good cause, the Court may issue a restraining order, writ or other process without notice to the company if deemed necessary in the public interest. Any such action will be reviewed at a hearing within five (5) days after notice to the company and the District Attorney General who shall represent the State at the hearing.

B. Pursuant to the provisions of TCA §40-11-125 and TCA §40-11-126 the Court may take appropriate disciplinary action including the withholding, suspension or termination of approval for a bondsman to act as agent for an approved bonding company, if the agent:

   1. Has been convicted of a crime of dishonesty, any felony or any alcohol or drug related offense;
   2. Fails to submit for a drug screen as requested by the Court;

Rule 9 cont'd.

3. Tests positive for any illegal substance by a drug screen requested by the Court;
4. Has a final judgment of forfeiture entered against the bonding company that remains unsatisfied which the agent authorized;
5. Has failed to comply with any local rules; or
6. Is guilty of unprofessional conduct that includes, but is not limited to:
   a. Loitering about the jail or court premises and within the prohibited areas to solicit business;
   b. Suggesting or advising the employment of, or otherwise referring, any particular attorney to represent the defendant;
   c. Paying a fee or giving or promising anything of value to any Clerk of court, jailer, police officer, peace officer, committing Magistrate, or any other person who has the power to arrest or hold in custody, or to any public official or public employee to secure a bond, and/or a settlement, compromise, remission or reduction of the amount of any bail bond or the forfeiture thereof;
   d. Paying a fee or rebate or giving anything of value to an attorney in bail bond matters, except in the legal representation of any action pertaining to the bail bond company or action;
   e. Surrendering a principal without good cause;
   f. Accepting anything of value from a principal except the premium provided, however, that the bondsman shall be allowed to collect collateral, security or other indemnity from the principal that shall be returned upon final termination of liability on the bond where such collateral, security or other indemnity required by the bondsman is reasonable in relation to the amount of the bond and where the said bondsman accepting such collateral delivers a written receipt for the same which receipt describes in detail the collateral received and the term of redemption;
   g. Accepts anything of value as payment for a premium or collateral after the defendant/principal is released from custody, except as authorized under Rule 7(D).

RULE 10 INDIVIDUAL BONDS

A. Any individual who desires to post a real property bond pursuant to TCA §40-11-122 shall submit a current title opinion for said real property reflecting the encumbrances thereon. The appraised value/equity of the property owner providing said surety must equal one and one-half times the amount of the bond. The property owner providing said surety must comply with all regulations as set forth by the Office of the Criminal Court Clerk. If the amount of the bond is $75,000.00 or more, then the bond must be made after notice to

Rule 10 cont'd.

the District Attorney General and a hearing in open court pursuant to TCA §39-11-715 pertaining to the source of the bond.

B. Any individual who desires to deposit a cash bond with the Clerk pursuant to TCA §40-11-118 shall be notified in writing by the Clerk that such cash deposit shall be returned subject to any fines, court costs or restitution as ordered by the Court. No cash bond may be received in the amount of $10,000.00 or more without notice to the District Attorney General and a hearing in open court pursuant to TCA §3-9-11-715.

C. Upon release from jail, or at first appearance to booking authorities upon receipt of a citation, the Clerk shall notify the defendant in writing of the initial court appearance. The Clerk shall retain proof of such notification. Each defendant shall provide to the Clerk before release on a property or cash bond an address where notification of a court date may be delivered. It shall be the responsibility of the defendant to notify the Clerk of any change of address.

RULE 11 AMENDMENTS

These rules may be amended from time to time by the Criminal Court judges. Upon amendment, the Criminal Court Clerk shall notify all approved bonding companies in Davidson County by certified mail, return receipt requested, or by personal delivery with a signed receipt for the same. Upon receipt of notice, all bonding companies shall comply with said amendments.

These Rules are Approved and Effective this 1 day of July, 2008.

STEVE DOZIER, JUDGE
Criminal Court, Division I

J. RANDALL WYATT, JUDGE
Criminal Court, Division II

CHERYL BLACKBURN, JUDGE
Criminal Court, Division III

SETH NORMAN, JUDGE
Criminal Court, Division IV

MONTE WATKINS, JUDGE
Criminal Court, Division V

MARK J. FISHBURN, JUDGE
Criminal Court, Division VI

Administrative Policies And Procedures	Policy# CJC 1-08
	Effective Date: 1 July 2008
CJC Contract Security	Supersedes: N/A
Approved By(STC):	Page 1of 2
Subject: Local Rule 16 (Bonding Companies) Enforcement IAW Trial Court Policy	

I. **APPLICABLE STANDARDS:** CJC Security Post Orders dtd 1/16/08.
Criminal Court Rules of Practice – Rule 6 – Activities of Bail Agents.
TCA §40-11-126.

II. **APPLICATION:** All Contract Security Officers (CPO's) assigned to the CJC Post.

III. **PURPOSE:** To provide guidance, to the Security Officer assigned to the CJC, for the enforcement of the Criminal Court Order restricting the activities of Bail Agents (Rule 6C) as stated in this Policy and the reporting of any violations, of said Order , to the Proper Authority.

IV. **POLICY:** As provided by TCA §40-11-126, no Bondsman or Bonding Company shall solicit business in any place where prisoners are confined. Such places include the Criminal Justice Center and the areas within the posted limits of the public entrance thereto. No Bonding Company employee or agent shall initiate contact with a defendant, their family or any other person in order to obtain their business. Contact with a defendant who is a potential client will be allowed only after the Bonding Company has been contacted by the defendant or someone authorized to act on their behalf. Under the authority and direction of the Trial Courts, the Security Officer assigned to CJC shall enforce this policy.

V. **DEFINITIONS:**

1. CJC – Criminal Justice Center
2. CPO – Custom Protection Officer (Armed)
3. SECURITY OFFICER – Metro Contracted Security Officer (CPO) acting under the direction and as an agent of the Trial Courts.
4. PROPER AUTHORITY – The Trial Court Security Director, the Criminal Court Clerk and the Supervising Judge.
5. SUPERVISING JUDGE – Trial Court Judge designated to supervise an approved Bonding Company.

6. SOLICIT - To appeal for something: to apply to for obtaining something; to ask earnestly; to ask for the purpose of receiving; to endeavor to obtain by asking or pleading; to entreat, implore, or importune; to make petition to; to plead for; to try to obtain; and though the word implies a serious request, it requires no particular degree of importunity, entreaty, imploration, or supplication. To tempt a person; to lure on, especially into evil. To awake or excite to action, or to invite. The term implies personal petition and importunity addressed to a particular individual to do some particular thing.

7. SOLICITATION - Asking; enticing; urgent request. Any action which the relation of the parties justifies in construing into a serious request. The word is also used in such phrases as "solicitation to larceny," to bribery, etc.

8. LOITER – To be dilatory; to be slow in movement; to stand around or move slowly about; to stand idly around; to spend time idly; to saunter; to delay; to idle; to linger; to lag behind.

VI. PROCEDURES:

1. All Bail Agents must wear/display their photo identification badge (issued by the Criminal Court Clerks Office) while performing their duties as a Bail Agent.
2. Loitering is not permitted within the CJC Lobby or the area within the posted limits of the public entrance thereto. Bail Agents who violate this procedure are subject to increased scrutiny in determining possible violations of Rule 6C (Solicitation).
3. No Bonding Company advertisement material will be allowed in the CJC Lobby or within the posted limits of the public entrance thereto (example: shirts w/company logos, stickers, pins, buttons etc…)(except for required ID). No vehicles, displaying Bonding Company logos or advertisements, are allowed to be parked within the posted limits of the CJC.
4. Reporting Procedures: Violations/Suspected Violations of Criminal Court Rules of Practice (Rule 6C – Solicitation) shall be reported, by the Security Officer witnessing the incident, to the Trial Court Security Director, via his/her immediate supervisor. The report will be in the form of a standard Incident Report. Once an investigation is complete, the findings will be forwarded to the Supervising Judge for disposition.
5. Any opposition to the application/enforcement of these procedures shall be directed to Trial Court Security Director as soon as practical.

VII. EXPIRATION DATE:

1. Review Date: 1 July 2009
2. Expiration Date: Upon Review