



## **BELIZE POLICE DEPARTMENT**

### **Standing Operating Procedures for the grant of Police Bail**

**This document explains the procedure that must be followed by members of the Belize Police Department whenever they are dealing with the grant of Police Bail.**

#### **BAIL**

Bail is the temporary release of an accused person (the principal) on an undertaking being given or a recognisance (a promise to pay a sum of money) taken for his surrender to custody at a future appointed time and place to answer charge made against him at Court of law or to return to the Police Station.

#### **Recognisance**

A recognisance is an obligation under which a person agrees that he is willing to forfeit a specified sum of money to the Crown if he fails to fulfill the conditions. The recognisance may be 'personal' that is his own promise or 'by surety' where another person acting as surety for the principal undertakes the obligation to ensure that the principal surrenders at the time and place appointed.

#### **Right to Personal Liberty**

The Belize Constitution Section 5 (5) states that "If any person arrested or detained as mentioned in subsection (3) (b) of this section is not tried within a reasonable time, then without prejudice to any further proceedings that may be brought against him, he shall, unless he is released, be entitled to bail on reasonable conditions."

Section 5 (3b) of the Belize Constitution also states that "Any person who is arrested or detained- upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under any law, and who is not released, shall be brought before a court without undue delay and in any case not later than forty-eight hours after such arrest or detention."

It is therefore imperative that bail is granted quickly to persons in custody when so entitled regardless of the person's status.

### **Bail Entitlement**

- Whenever a person is taken into custody and there is sufficient evidence to support a charge, a police officer must charge that person promptly.
- The Officer Commanding/Deputy or any other police officer in charge of a station **shall without delay** grant bail forthwith once the conditions are met as set out below.

### **Powers of Police to grant Bail**

The Police Act, Chapter 138 of the Substantive Laws of Belize make provisions for the granting of Police Bail to those persons in custody under the following sections:

“18.-(1) It shall be lawful for any superior officer or any non-commissioned officer or constable in charge of a Police Station, when any person is in custody without warrant for any offence punishable upon summary conviction, to take bail for the appearance of such person before the nearest court of summary jurisdiction at a day, time and place to be named in the recognisance.”

“47. Every person taken into custody by a police officer without warrant shall be forthwith delivered to the officer in charge of the nearest police station, in order that such person may be secured until he can be brought before a magistrate to be dealt with according to law, or may give bail for his appearance before a magistrate, if the officer in charge deems it prudent to take bail.”

### **Offences for which Police Bail is not given**

The Crime Control and Criminal Justice Act read along with amendment No.5 of 2008 states that the following offences are non-bailable.:

“16 – (1) Notwithstanding any other law or rule of practice to the contrary, no magistrate, justice of the peace or police officer shall admit to bail any person charged with any of the offences set out in subsection (2) below.

(2) The offences referred to in subsection (1) are the following:

- (a) murder, attempted murder, or conspiracy to murder,
- (b) robbery or attempted robbery while in possession of a firearm;
- (c) burglary or attempted burglary while in possession of a firearm;
- (d) aggravated assault with the use of a firearm;
- (e) kidnapping or attempted kidnapping;

- (f) a drug trafficking offence under the Misuse of Drugs Act, where the quantity of the controlled drug involved is **more than** the quantities specified in paragraphs (i), (ii), (iii) and (iv) of the **Proviso** to section 18(1)(a) of the Misuse of Drugs Act. (CAP. 103)
- (g) carnal knowledge of a girl under sixteen years of age;
- (h) incest
- (i) an offence under the Firearms Act;
- (j) an offence under Section 2 of Part I of the Crime Control and Criminal Justice Act relating to suppression of criminal gangs.

For the purpose of sub section (f) above, bail cannot be granted if drug is **more than** (CAP. 103 Sec. 18(1)(a))

- (i) 1 kg of Heroin
- (ii) 1 kg of Cocaine
- (iii) 2 kg of Opium
- (iv) 2 kg of Morphine

For the purpose of sub section (j) above, Section 2 of Part I of the Crime Control and Criminal Justice Act states as follows:

‘2.-(1) Subject to subsection (3) below, a person is guilty of an offence if he knowingly:-

- (a) belongs or professes to belong to a criminal gang;
- (b) solicits or invites support for a criminal gang; or
- (c) arranges or assists in the arrangement of, or addresses, any meeting of three or more persons (whether or not it is a meeting to which the public are admitted) knowing that the meeting is:-
  - (i) to support a criminal gang; or
  - (ii) to further the activities of a criminal gang.’

*The Indictable Procedure Act CAP. 96 Sec. 56 (3)* states that a magistrate shall not admit to bail any person charged with treason, misprision of treason, treason-felony or murder.

Note: Misprision of Treason is committed by someone who knows a treason was committed, being or is about to be committed but does not report it to a proper authority.

**Process to be adhered to when a person is committing his/herself to being the surety for the principal:**

1. Police bail will be granted only if a defendant can provide acceptable surety to ensure his/her surrender/appearance to court. Therefore the police officer offering bail must ensure that the correct information is obtained of the surety. The necessary information such as Identification Card No., Social Security Card, address, date of birth, telephone number, etc. should be obtained.

2. When the recognizance of a surety is taken by the police, the police bail form must be filled out.
3. Each bail certificate must be verified and signed by the officer incharge of the Police Station.

### **Enquiries re Bail and Sureties**

Before a prisoner is released on bail police must exhaust every effort that the prisoner is properly identified by the name and other particulars given and verification noted in the Personnel Diary. Enquiries are to be made if there is any doubt or he is not known to local officers or his present address is not confirmed. Where a surety undertakes to enter into recognisance in a certain sum of money police should ensure by enquiry if necessary, that he has wealth with which to meet the payment in the event of the principal failing to surrender to bail at the appointed time and place. Also the police must exhaust every effort in establishing that the person who want to be surety is not someone with criminal background.

Enquiries received at other stations regarding bail or sureties will be completed as quickly as possible and a reply sent in order that persons who can be bailed are not kept in custody longer than necessary.

### **The following persons cannot provide surety for those persons to be bailed:**

1. The Police Department's Standing Orders prohibit every superior officer, non-commissioned officer or constable to become surety for any person without the permission in writing of the Commissioner.
2. Non- Belizeans

### **Grounds for objection to Bail:**

- (a) serious nature of the offence e.g. grievous harm
- (b) possible interference with witnesses e.g. assault cases
- (c) likely to abscond
- (d) liable to commit further offences e.g. in cases of domestic violence
- (e) young person out of control of parent or guardian
- (f) threat to the prisoner's own safety if released
- (g) any other relevant and valid objection