

Philadelphia DAO Policy on Bail



Effective Date: 2/21/2018

Effective February 21, 2018, the District Attorney will ordinarily no longer ask for cash bail for the following misdemeanors and felonies. All representatives of the District Attorney will be expected to abide by this presumption. Where justice requires, there is discretion to go against this presumption.

The cash bail system is rife with injustice and exacerbates socio-economic and racial inequalities, disproportionately penalizing the poor and people of color. The reforms laid out below represent a decisive step toward ending the use of cash bail and making the pretrial system more just.

All representatives of the District Attorney should presume that they will no longer seek cash bail on the following charges:

35-780-113-A16	Intentional Possession of a Controlled Substance
75-3802	DUI
18-3929	Retail Theft
35-780-113-A19	Unlawful Purchase of a Controlled Substance (BFP)
35-780-113-A31	Possession of Marijuana
18-3921	Theft by Unlawful Taking (not graded as F2)
18-5902	Prostitution
18-3925	Receiving Stolen Property (not graded as F2)
18-3304	Criminal Mischief
184101	Forgery
18-3502	Burglary F2- Not for Overnight Accommodation, No Person Present
18-3503	Trespass (non-residential)
18-3934	Theft from Motor Vehicle (not graded as F2)
18-3922	Theft by Deception or False Impression
18-5104	Resisting Arrest
18-3928	Unauthorized Use of a Motor Vehicle
35-780-113-A32	Paraphernalia
18-5123	Contraband
18-4914	Providing False Identification to Law Enforcement
62-62- 481	Fraud in Obtaining Foodstamps/Pubic Assistance
18-4120-	Identity Theft
18-4119	Trademark Counterfeiting
18-4106	Access Device Fraud
35-780-113-A30	PWID-Marijuana (51bs or under)

Special Conditions for PWID Cases (Other than Marijuana)

Where a defendant is charged with possession with the intent to deliver a substance other than marijuana, the presumption against monetary bail applies, except in any of the following circumstances:

- The weight of drugs possessed is greater than:
 - Heroin: 2.5g
 - Cocaine/Crack: 5g
 - Methamphetamine/PCP/Amphetamine: 12.5g
 - Other schedule 1/11 narcotic: 5g
- There is evidence of the presence of fentanyl
- The defendant has received two or more bench warrants in the past five years
- The defendant has one or more open cases of:
 - PWID
 - A violent felony or
 - VUFA/PIC (gun)
- A defendant has finished serving a sentence for:
 - PWID in the last 2 years
 - A violent felony in the past 5 years
 - VUFA or PIC (gun) in the past 5 years

Discretion:

In the above cases where the presumption applies, representatives of the District Attorney should generally recommend R.O.R.

While a presumption against cash bail applies in the above cases, representatives will continue to have discretion to ask for monetary bail where justice requires. For example, cases where a defendant is charged with a string of crimes, such as burglaries or thefts, or who have multiple DUIs in a short period of time, may be given cash bail despite the presumption against it. A significant history of recent flight may also suggest detention.

For all cases not subject to the above policy, representatives of the District Attorney should continue to evaluate bail requests on a case by case basis.

This policy will also apply to bail reduction motions in preliminary hearing and trial rooms, and in Motions Court.