

Philadelphia DAO Women Centered Policies



Effective Date: 10/1/2020

These policies are based on the special experiences of women in the Criminal Justice System and are designed to ameliorate certain injustices in the system that are mostly experienced women. It should be emphasized that these policies do not just apply to women. They apply to women and to any one else of any gender who is similarly situated. Like all policies, they are presumptive only, but an Assistant DA may only deviate from the policy upon consultation with and approval from a Supervisor.

- Regarding Single Parenthood
 - Consider single parenthood of minor children as a mitigating factor to be taken into account when considering sentencing issues.
 - Consider alternatives to total incarceration where possible, and if not possible, consider a sentence for the qualifying defendant to the county prison.

- Regarding a History of Abuse
 - Consider a history of abuse as a mitigator that will either lower the grade of the crime charged or be given consideration when making a plea offer or a sentencing recommendation. In some cases, it might be considered a complete defense.
 - This will be done on a case by case basis. Various factors will be considered, including but not limited to:
 - the type of abuse
 - the length of time that the abuse continued
 - the type of injuries inflicted
 - the existence or non-existence of provocation

- Regarding Charging
 - Only charge the accused with crimes that reflect the actual extent of the participation in the criminal episode.
 - Do not use the Felony-Murder Rule, Accomplice liability or Conspiracy to raise the level of the crime charged unless this is supported by specific facts.

- Regarding Pregnancy

- Whenever possible, pregnant accused should not be incarcerated pre-trial and, in the event of a conviction, a sentencing solution should be devised that will not require a pregnant offender to give birth in prison.
- Where an offense requires total incarceration, unless there is articulable proof of dangerousness or risk of flight, execution of sentence should be deferred until 3 months after the birth, unless the defendant does not wish to defer.
- We will cooperate with other organizations in the community to work toward providing a half-way house where pregnant persons, who require a quasi-prison setting, could be housed both before and after, the birth of offspring.

- Regarding Section 42 Pa C.S. §9762

- This section of the Code has not been used in recent years because of the overcrowding situation in the Philadelphia County Prisons, which has now been corrected.
- This section of the Code permits a State sentence of more than two years minimum but less than five years maximum to be served in the County Prison if the DAO agrees and the Judge allows it.
- This section of the code is particularly important for women because the only 2 State prisons for women are located far from Philadelphia in locations where there is no access to public transportation.
- We will work with Secretary Wetzel and Commissioner Carney to try to have this section of the code reactivated so as to give us a useful and humanitarian sentencing alternative