

Placer County District Attorney's Office

13.00 BAIL/OWN RECOGNIZANCE RELEASES

13.01 INTRODUCTION

At in-custody arraignments, it will be this office's policy to request bail in all appropriate cases. Our view must be toward the protection of victims and of society. We will sometimes find ourselves at odds with the court over bail. We will probably always be at odds with defense counsel on this issue. Even so, and though it may seem that we are out-numbered by the opposition, we have a duty to act in the public interest.

13.02 GENERAL GUIDELINES

Below are some general guidelines relating to certain types of commonly encountered cases. As always, the individual circumstances of every case will vary and must be considered. Accordingly, some types of cases not included below may also call for bail or for an increase in bail.

CRIMES AGAINST PERSONS: Where there is significant injury or a history of violence or drunk driving, we should make a strong public safety argument in order to compel appropriate bail and militate against a possible release on the defendant's own recognizance.

CRIMES AGAINST PROPERTY: These are generally less dangerous than crimes against persons. However, we must consider the value of the lost property as well as the sophistication of the crime. A large theft in a planned crime compels an argument for bail and against O.R..

DRUG CASES: When a substantial quantity of drugs and/or cash are seized, or when there is a record of prior sales, bail should be requested.

OTHER CASES: As always, the defendant's ties to the community, employment or lack thereof, permanent address or lack thereof, criminal record or lack thereof, aliases, and all the other factors associated with a typical probation department bail/O.R. report should be considered.

13.03 BAIL REPORTS

Bail reports are commonly prepared for in-custody defendants for consideration by the court, prosecutor and defense attorney at the arraignment. We should always consider the bail score.

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Verified scores prevail over simple interview scores because some defendants have been known to lie.

A total verified score of 3 or less is a risk candidate. Ask for bail. Scores of 4 to 6 create questionable candidates. Exercise caution; bail is probably appropriate. Scores of 7 to 9 are fair and you will have to look to the case facts using the aforementioned general guidelines.

A score of 10 is stable, but if this person is a disgruntled postal-worker with a fresh string of 187's and smoldering gun-shot residue on both sleeves, it won't matter if his mother promises to return him to court for all his appearances, he's simply not leaving the jail--seek a no-bail hold. He's an FTA waiting for the opportunity. His score may show stability, but instability has crept into his life.

13.04 OTHER CONSIDERATIONS

Bail scores are merely an indicator, a tool to be used. We are free to use the facts of the case, a witness' account of the incident, a victim's fear, a defendant's criminal history, lack of citizenship, psychological or emotional instability, a police officer's knowledge of the defendant or anything else that common sense would tell you should be considered to determine if the defendant is a flight risk or a danger.

Hearsay or not, it's usable. Most of what is in a bail report consists of out of court statements offered for their truth. The court routinely relies on them.

Ideally, in cases, O.R.'s should become the exception, not the rule. High verified bail scores coupled with low level crimes with no injuries are more suitable for O.R.'s. If someone is O.R.'d, with or without our consent, certain cases may require imposition of random drug testing and/or warrantless searches and seizures while on O.R.. If you see a drug case and you feel it is appropriate, ask for these conditions.

Bail is different from O.R. releases. Nothing stops the defendant from securing conditionless bail.

In today's society, FTA's are a problem and a serious waste of taxpayers' funds. We must take a stand relative to permissive O.R.'s. Otherwise the courts may continue down the path of least resistance and perhaps inappropriately release defendants on their O.R.'s without appropriate restrictions.

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Concerning that tendency, ours is usually the only voice in opposition. When appropriate, make your voice heard.