

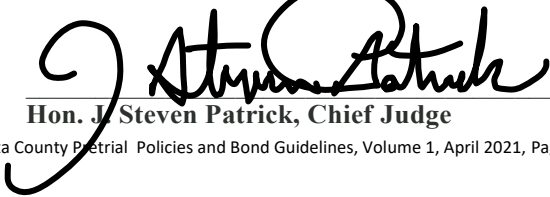
DELTA COUNTY PRETRIAL POLICIES AND BOND GUIDELINES - ADMINISTRATIVE ORDER 2021-08

- "No Recommendation" means there is no specific recommendation, and characteristics of the individual defendant and nature and circumstances of the charges should be given significant weight and consideration when making pretrial decisions. "No Recommendation" does not preclude a PR bond.
- If substance testing is desired as a condition of release the court must specifically order such testing. Substance testing is not an automatic requirement of PTS.
- Each color indicates PTS supervision level specified by SMART Praxis **RED** = Intensive **ORANGE** = Enhanced **YELLOW** = Basic **GREEN** = No Supervision

RISK TOLERANCE

CPAT-R Risk Level	These bond guidelines are recommendations. Deviation from these recommendations may be appropriate based on case-specific circumstances.						
	1	2	3	4	5	6	7
	Domestic Violence DVSI 11 or Greater (Felony & Misd.)	Felony VRA (C.R.S. 24-4.1-302) & Felony DV DVSI 10 or Less	Drug Felonies DF 1, 2 & 3	Felony DUI & Aggravated DUI	Other Felonies & Drug Felony 4	Misdemeanor VRA (C.R.S. 24-4.1-302) Misdemeanor DV DVSI 10 or less	Other Misdemeanor & Traffic Offenses
Cat 1	PR Release (with PTS)	PR Release (with PTS))	PR Release (with PTS)	PR Release (with PTS)	PR Release No Supervision	PR Release No Supervision	PR Release No Supervision
Cat 2	No Recommendation (PTS if released)	No Recommendation (PTS if released)	No Recommendation (PTS if released)	PR Release (with PTS)	PR Release No Supervision	PR Release No Supervision	PR Release No Supervision
Cat 3	No Recommendation (PTS if released)	No Recommendation (PTS if released)	No Recommendation (PTS if released)	No Recommendation (PTS if released)	No Recommendation (PTS if released)	No Recommendation (PTS if released)	PR Release No Supervision
Cat 4	Release Not Recommended (PTS if released)	Release Not Recommended (PTS if released)	Release Not Recommended (PTS if released)	Release Not Recommended (PTS if released)	Release Not Recommended (PTS if released)	Release Not Recommended (PTS if released)	No Recommendation (PTS if released)

- Pursuant to C.R.S. 16-4-103(3) the two equally important purposes and goals when deciding the type of bond and conditions of release are:
 - 1) to reasonably assure the defendants' appearance in court, and
 - 2) to protect the safety of any person or the community.
- The court shall presume that all persons (pre-conviction) are eligible for release on bond with the appropriate and least-restrictive conditions of release necessary to reasonably assure the appearance of the person as required and to protect the safety of any person or the community. C.R.S. 16-4-103(4)(a).
- The court shall take into consideration the individual characteristics of each person, including the person's financial condition. C.R.S. 16-4-103(3)(a).
- The court shall also consider all methods of bond and conditions of release to avoid unnecessary pretrial incarceration. C.R.S. 16-4-103(4)(c).
- The court is authorized to impose a monetary condition of a bond, including a deposit of an amount of cash equal to the monetary condition of the bond, when reasonable and necessary to assure the appearance of the person in court or the safety of any person or persons or the community. C.R.S. 16-4-104(1)(c).
- In making pretrial decisions, a judge shall consider an empirically developed risk assessment. C.R.S. 16-4-103(3)(b). A judge may also consider the nature and circumstances of the charges, the possible and likely sentence (including any sentence enhancing charges), prior criminal history, prior failures to appear, and other factors allowed by C.R.S. 16-4-103(5).
- There is no constitutional or statutory right to bail or release post-conviction. And a court may not set bail that is otherwise allowed unless it finds that, 1.) The person is unlikely to flee, and 2.) That the person does not pose a danger to the safety of any person or the community. C.R.S. 16-4-201.5(2)(a).
- All Delta County Pretrial Services employees shall be designated as bonding commissioners as contemplated in C.R.S. section 16-4-109
- Delta County Pretrial Services shall provide an annual report to the judicial department consistent with C.R.S. Section 16-4-106 (5).
- The bond guidelines shall be in effect as of June 1, 2021 and shall replace Administrative Order 96-05 as to individuals in the Delta County Jail on cases arising in Delta County Courts.


 Hon. J. Steven Patrick, Chief Judge

DELTA COUNTY PRETRIAL POLICIES AND GUIDELINES - ADMINISTRATIVE ORDER 2021-08 *Continued*

Additional Definitions and Policies:

1. **'Pretrial risk'** - a defendant's risk to fail to appear for court, and/or a defendant's risk to harm any person or the community.
2. Pretrial Services (PTS) shall be through DCCJS and shall be in accordance with the SMART Praxis unless a deviation is warranted and specifically ordered by the court.
3. All defendants in the DCCJS Pretrial services are given court appearance reminder calls, email, and/ or text messages before every court appearance.
4. The Colorado Pretrial Assessment Tool Revised (CPAT-R) shall only be completed by trained Delta County Pretrial Services staff.
5. A judge shall not determine as to the type, conditions, and amount of a bond without considering a defendant's CPAT-R risk assessment. C.R.S. 16-4-103 (3)(b).
6. CPAT-R assessments will generally not be completed for post-sentencing matters unless specifically requested, and when resources allow. While the CPAT-R has not been validated for post-sentencing matters such as probation violations, failures to comply, and failures to appear, a defendant's CPAT-R assessment may be informative and helpful in setting bond for such cases, since the purpose for the bond is the same as for new criminal charges.
7. **DUI:** First DUI arrest. Release and summons at the discretion of law enforcement.
8. **Aggravated DUI:** Prior DUI conviction and/or open DUI cases. Defendants shall be arrested and assessed with a CPAT-R and Pretrial Report and held to see a Judge. The term **'DUI'** includes all drug and alcohol-related driving offenses such as DUI, DWAI, DUID, and DWAIID.
9. No monetary amount or monetary condition of the bond is required for personal recognizance bonds, pursuant to C.R.S. 16-4-103 and 104(1)(a). Evidence and research are indicating that the financial conditions of bonds do not have a positive impact on court appearance or public safety.
10. DCCJS has the authority to decline to supervise a defendant based on their policies and protocols. If DCCJS declines to supervise a defendant, they shall notify the court in writing of the decision within a reasonable time frame.

Additional Pretrial Legal Principles and Procedures:

1. As indicated in these bond guidelines and the Colorado bond statutes, there is a presumption for pretrial release. This presumption is also supported in case law. For example, in People v. Salerno, "In our society liberty is the norm, and detention before trial or without trial is the carefully limited exception." Salerno, p. 755.
2. In a large majority of cases, the pretrial decision should result in the release of the defendant with the least restrictive conditions necessary to address pretrial risk.
3. At the defendant's initial court appearance, if a judge has decided that there are no non-monetary bond conditions that can adequately address a defendant's pretrial risk, a cash-only monetary condition may be imposed. If a monetary condition results in the pretrial detention of the defendant, such a result may be reasonable and appropriate.
4. If a defendant violates any bond condition, the court may find that the presumption of release has been overcome, and impose a monetary condition.
5. Pursuant to C.R.S. 16-4-107, if a defendant is unable to satisfy a monetary condition of the bond after 7 days, the defendant may file a motion with the court for a modification of that monetary condition. The court shall conduct a hearing on the defendant's motion within 14 days unless the court finds the defendant's motion to have no merit.
6. After the C.R.S. 16-4-107 bond hearing, for the judge to retain a monetary condition that has resulted in the pretrial detention of the defendant, the judge must find probable cause that the defendant committed the crime(s) charged (which may be determined and found by the facts as alleged in the affidavit), and must find that the defendant's pretrial risk cannot be adequately addressed by less restrictive bond conditions. At such a hearing, the court must give significant weight and deference to the CPAT-R risk category and the bond guidelines. The defendant and the prosecution may present any relevant argument and evidence including sworn testimony if desired. The rules of evidence shall not be applicable. The judge may find that the defendant's CPAT-R risk category, combined with the facts and circumstances of the alleged crime, is sufficient to justify a monetary condition that results in the defendant's pretrial detention.
7. Pursuant to 16-4-107, the defendant is entitled to this procedure only once during the pendency of the case. The court may allow subsequent hearings if warranted, but additional hearings are not required or guaranteed by Colorado statutes.