
**Standing Order re Pre-Appearance Release by Department of
Community Corrections and Rehabilitation – Amended.**

Pursuant to the Standing Order issued by the Chief Judge, the Criminal Presiding Judge issues the following order setting standards for pre-appearance release by the Department of Community Corrections and Rehabilitation (DOCCR). These standards are in addition to any conditions or restrictions for pre-appearance release listed in the Chief Judge's Standing Order.

I. **Pretrial Services Point Scale - General Release Authority**

For charges not requiring judicial review, as identified by the Fourth Judicial District **Current Offense Charge Points**, DOCCR is authorized to release defendants - with or without conditions - who score between 0 and 25, subject to the restrictions detailed below.

II. **Limited Authority to Release.**

If the charges include the applicable DWI or Domestic Violence Offenses listed below, certain criteria must be met and certain conditions must be imposed before DOCCR may authorize release. DOCCR is also authorized to impose additional conditions in such cases or in any other case in which release by DOCCR is authorized. However, if release is prohibited under Section III below, release is not authorized under this section.

1. **DWIs.**

- a. ***Applicable DWI Offenses.*** This section applies to the following DWI offenses:
 - Second-degree Driving while Impaired (Minn. Stat. 169A.25).
 - Third-degree Driving while Impaired (169A.26) with an aggravating factor:
 - defendant is younger than age 19;
 - defendant's BAC was .16 or higher;
 - a child under age 16 was in the vehicle;
 - defendant's license is cancelled as inimical to public safety; and,
 - Driving After Cancellation - Inimical to Public Safety if the charges include any degree of DWI (171.24).
- b. ***Electronic Alcohol Monitoring.*** DOCCR must require electronic alcohol monitoring as a condition of any release authorized for the DWI Offenses listed above.
- c. ***Maximum Bail.*** If DOCCR decides to release a defendant on Conditional Release under this section, the defendant shall be given the additional option of posting maximum bail of \$12,000 without any conditions (including no electronic alcohol monitoring conditions).

2. **Domestic Violence Offenses.**

- a. **Applicable Domestic violence Offenses.** This section applies to the following Domestic Violence offenses:
 - Misdemeanor Domestic Assault (Minn. Stat. 609.2242);
 - Interference with Emergency 911 Calls (609.78);
 - Misdemeanor Violation of Order for Protection (518B.01);
 - Misdemeanor Violation of Domestic Abuse No Contact Order (629.75);
 - Misdemeanor Violation of Harassment Restraining Order (609.748);
- b. **No Contact Order.** Any release must be conditioned on the defendant having no contact with the victim.
- c. **Qualification for Release.** All of the following conditions must be met before DOCCR is authorized to release a defendant charged with a Domestic Violence Offense.
 - defendant has not been convicted for possession of a firearm;
 - the victim does not express concern for his/her safety;
 - the victim does not express concern about the defendant being released;
 - the victim does not express concern that the defendant has access to a firearm;
 - defendant has a place to reside, other than with the victim and the individual with whom the defendant will stay verifies that:
 - the address is correct and the defendant is allowed to stay there;
 - he or she has no concern for the victim's safety; and,
 - he or she expresses no concern about the possibility of defendant's release from custody.
 - DOCCR determines that a Domestic Abuse No Contact Order (DANCO) is not needed.
 - There is no credible information that the defendant has ever attempted suicide, expressed suicidal ideation, or attempted self-harm.

III. **No Authority to Release.**

DOCCR does not have authority to release any defendant who:

1. is charged with an offense requiring Judicial Review; or
2. scores 26 or above on the Pretrial Services Point Scale.

IV. **Authority to Hold Based upon Override Factors.**

DOCCR has the discretion to continue to hold a defendant based on any of the following "override" factors:

1. **A DANCO is appropriate** because the defendant is likely to contact the victim without the increased penalties and enforcement options available for Domestic Abuse No Contact Orders.
2. **There is heightened concern for victim safety** as shown by the fact that the victim:
 - (a) has not provided a statement, (b) reports that the defendant has access to firearms, or (c) expresses concern for their safety if the defendant is released.
3. **There is a heightened threat to public safety** because (a) criminal conduct is likely to continue, and (b) the defendant is unlikely to comply with release conditions.
4. **There is a heightened risk for non-appearance** based upon specific statements made by the defendant or by collateral sources.

5. **Defendant is a non-resident** of Minnesota or has resided in Minnesota for less than six months and poses a heightened flight risk.
6. **Defendant's drug or alcohol use** may result in harm to the defendant or to the public.
7. **Defendant's major mental illness**, which is documented, self-reported, or reported by a collateral source, is not managed, placing the defendant or the public at risk.
8. **Defendant is on supervised release** (parole) and the new charge is a felony, or a person, drug, or alcohol-related offense.
9. **Defendant provides false or conflicting information.**
10. **Defendant has additional matters pending**, including:
 - a. felony holds from other jurisdictions;
 - b. Arrest and Detention orders;
 - c. bench warrants for a non-appearance other than a failure to appear in response to a Summons or Conditional Release violation;
 - d. probable cause holds;
 - e. immigration holds; or,
 - f. the defendant is a prisoner of the federal government, the military, Immigration, or in-transit.
11. **Defendant cannot be interviewed in time** to be released from custody before his or her scheduled court appearance.
12. **There are substantial and compelling reasons**, which are documented, suggesting a high risk for pretrial failure, not otherwise captured by the above criteria.

DATE: May 31, 2016

BY THE COURT:



Hon. Daniel H. Mabley
Presiding Judge, Criminal Division
Hennepin County District Court