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Standing Order re Pre-Appearance Release for Procedures and Bail

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**I. MISDEMEANORS**

**A. Arrest without Warrant**

1. **Violation of Domestic Abuse No Contact Order** – When a person is arrested without a warrant for a misdemeanor violation of a domestic abuse no contact order and is going to be charged by the arresting officer, a tab charge shall be issued and the person shall be held without bail (HWB), and brought to the next available session of court, unless the person is ordered released earlier by a judge or the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.
2. **Other Domestic Abuse Offenses**<sup>1</sup> - For other domestic-abuse misdemeanor offenses, when a person is arrested without a warrant and is going to be charged by the arresting officer, a citation or tab charge shall be issued and the accused released unless continued detention is necessary as provided in Minn. R. Crim. P. 6.01. A person detained pursuant to Minn. R. Crim. P. 6.01 shall be held without bail (HWB), and brought to the next available session of court, unless the person is ordered released earlier by a judge or the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.
3. **Other Misdemeanor Offenses** – This section applies to non-domestic misdemeanor arrests without warrant.
  - a. **Non-Payable Misdemeanor Offenses – No Bail Required.** Subject to Paragraph I.A.3.b., when a person is arrested without a warrant and is going to be charged by the arresting officer with a misdemeanor that is not on the Statewide Payables List<sup>2</sup> or the Hennepin County Ordinances Payables List<sup>3</sup>, a citation or tab charge shall be issued and the accused released without bail. Nothing in this order shall limit an arresting officer's discretion to release an arrested person without bail pending a formal complaint instead of a tab charge or citation.
  - b. **Non-Payable Misdemeanor Offense – Bail Required.** If the arresting officer states in writing that continued detention is necessary as provided in Minn. R. Crim. P. 6.01 a person must be held for court with a bail setting of \$300.00 or \$78.00 cash, unless a specific bail amount (which may be no bail required – “NBR”) is set by a judge or the

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<sup>1</sup> “Misdemeanor domestic abuse offense” means the following misdemeanor offenses: domestic assault, harassment, stalking, violation of an order for protection, or violation of a harassment restraining order.

<sup>2</sup> Statewide Payable Lists can be found at <http://www.mncourts.gov/JusticePartners/Statewide-Payables-Lists.aspx>

<sup>3</sup> [http://www.mncourts.gov/mncourtsgov/media/fourth\\_district/documents/Criminal/Fine%20Tables/Ordinances.pdf](http://www.mncourts.gov/mncourtsgov/media/fourth_district/documents/Criminal/Fine%20Tables/Ordinances.pdf) has the list of all Hennepin County Ordinances and specifies a fine amount if payable and “COURT” if not payable.

person is released by the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.

- c. **Payable Misdemeanor offenses and Petty Misdemeanors** – If a person is going to be charged by the arresting officer, a citation must be issued for petty misdemeanors and misdemeanors on the Statewide Payables List<sup>4</sup> or the Hennepin County Ordinances Payable List<sup>5</sup>. If a custodial arrest has been made, a citation must be issued in lieu of continued detention. Nothing in this order shall limit an arresting officer's discretion to release an arrested person without bail pending a formal complaint instead of a citation.

## **B. Arrest on a Warrant or Order for Detention**

1. When a judge has set bail on a specific case or warrant, that bail setting shall be used, unless the person is released without bail by the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.
2. When a judge has ordered that a person be held without bail (HWB), that person shall be brought to the next available session of court.

## **II. TAB-CHARGED DESIGNATED GROSS MISDEMEANORS**

**A. Applicability** – “Designated Gross Misdemeanors” as defined in Minn. R. Crim. P. 1.04(b)<sup>6</sup> may be tab charged.

**B. Mandatory Hold Without Bail** – Defendants tab-charged with any of the following Designated Gross Misdemeanors shall be held without bail (HWB) and brought to the next available session of court, unless the person is ordered released earlier by a judge or the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.

1. Second-Degree Driving While Impaired
2. Third-Degree Driving While Impaired if any of the following circumstances exist:
  - a. Defendant is less than 19 years old;
  - b. Defendant had an alcohol concentration of .16 or more;
  - c. A child under 16 years old was in the motor vehicle at the time of the offense;
  - d. Defendant's driving privileges are currently cancelled as inimical to public safety.
3. Driving After Cancellation – Inimical to Public Safety if charged with any degree of driving while impaired.

**C. Bail for Other Tab-Charged Designated Gross Misdemeanors** – Defendants who are tab-charged with Designated Gross Misdemeanors, but not including an offense listed in Paragraph

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<sup>4</sup> <http://www.mncourts.gov/JusticePartners/Statewide-Payables-Lists.aspx>

<sup>5</sup> [http://www.mncourts.gov/mncourtsgov/media/fourth\\_district/documents/Criminal/Fine%20Tables/Ordinances.pdf](http://www.mncourts.gov/mncourtsgov/media/fourth_district/documents/Criminal/Fine%20Tables/Ordinances.pdf)

<sup>6</sup> Gross Misdemeanor violations of Minn. Stat. §§ 169A.20 (DWI), 169A.25 (second-degree driving while impaired), 169A.26 (third-degree driving while impaired), 171.24 (Driving After Cancellation – Inimical to Public Safety)

II.B., shall have bail set at \$3000.00 or \$500.00 cash, unless the person is ordered released earlier by a judge or the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.

### **FELONIES AND NON-TAB-CHARGED GROSS MISDEMEANORS**

**D. Detention on “Probable Cause”** – When a person is being held on probable cause that they have committed a felony or gross misdemeanor offense, the person shall be held without bail (HWB), unless a judge has set bail or ordered the person’s release, or the person’s release has been ordered by either the prosecuting attorney or the arresting agency, or the person’s release is required because the applicable time periods that allow a person to be held without charges have expired.

**E. Formal Complaint Filed** – If a person is charged by formal complaint, it must be filed before the person’s first court appearance. Defendants must be released upon posting the bail designated on the complaint, unless released without bail by the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.

### **III. EXCEPTION FOR RELEASE FOR MEDICAL NECESSITY**

In all cases, a law enforcement agency that has a person in custody may release that person without bail to a medical facility if the agency believes that it is medically necessary and consistent with public safety to do so. Such release may occur without further order of the court. The accused should be given notice of any scheduled court appearance date.

### **IV. AUTHORITY TO APPLY CRIMINAL PRESIDING JUDGE SIGNATURE TO CONDITIONAL RELEASE FORMS**

The electronic signature of the Criminal Presiding Judge may be applied to Conditional Release Orders by DOCCR in accordance with established procedures as described above or as authorized in other standing orders.

**BY THE COURT:**

Dated: January 11, 2019

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Ivy S. Bernhardson  
Chief Judge of District Court