



# OLMSTED COUNTY ATTORNEY DOMESTIC ABUSE PROSECUTION POLICY

## **POLICY STATEMENT:**

It is the policy of the Olmsted County Attorney to prosecute domestic abuse allegations with an aim to protect individual victims from future abuse, promote the effective use of domestic violence sanctions and treatment, and achieve an overall reduction of domestic violence in the community.

## **SCOPE:**

This Policy encompasses all cases referred or charged as a Qualified Domestic Violence Related Offense (QDVRO) as defined in Minnesota Statutes section 609.02, subdivision 16. However, cases referred or charged as murder; first, second- or third-degree assault; criminal sexual conduct; or any other serious offense shall be outside the scope of this policy, even if the offense occurred in a domestic setting. This policy becomes effective November 5, 2025 and supersedes all prior Olmsted County Attorney Domestic Abuse Prosecution Policies.

This Policy is intended to cover “typical” domestic violence offenders. If a case is particularly egregious, whether because of the nature of the violence or because the offender has significant criminal history, the assigned attorney should promptly consult the County Attorney, through the respective Managing Attorney, about whether the case should be exempted from this Policy.

## **VICTIM CONTACT & NOTIFICATION:**

For all referrals, a prosecutor shall be promptly assigned to the case. That prosecutor will make a timely charging decision. And to the extent feasible, the assigned prosecutor will be chiefly responsible for the prosecution of the case through the conclusion of the sentencing hearing.

In all charged cases, contact with the victim shall be initiated by the Victim Witness Coordinator within 24 hours of charging. Model contact letters or meeting scripts for this initial contact have been developed and are available in the office’s case management software. In the event a case is declined or dismissed, pursuant to Minnesota Statutes section 611A.0315, contact with the victim shall be made promptly in person or by telephone. Notification shall include information on obtaining an order for protection or restraining order.

Subpoenas shall be used to require victims and lay witnesses to appear for trial. It is the aspiration of the County Attorney that subpoenas are personally served on victims of domestic abuse. Personal service is preferred to assure that the victim is

timely notified of the time and date of trial and to further personal interaction with the victim.

Pursuant to Minnesota Statutes section 611A.03 the assigned attorney shall make a reasonable and good faith effort to inform the victim of the contents of plea offers and the right to be present at the plea hearing to express the victim's opinion of the settlement. If a victim has questions or reservations about a plea offer, the assigned attorney must make reasonable efforts to answer the victim's questions prior to extending the offer to defense counsel.

**DOMESTIC ABUSE NO CONTACT ORDER (DANCO):**

- **Pre-Trial DANCO:** Pursuant to section 629.75, subdiv. 1(b), the District Court is authorized to enter a Domestic Abuse No Contact Order (DANCO) before final disposition of the underlying criminal case. A DANCO is independent of any condition of pretrial release. It is the default presumption that the prosecutor shall request a DANCO in every case. This office shall attempt to establish the victim's wishes relative to a DANCO. However, attorneys will typically recommend a pre-trial DANCO.
  
- **Post-Conviction DANCO:** Pursuant to section 629.75, subdiv. 1(b), the District Court is authorized to enter a DANCO as a post-conviction probationary order in the underlying criminal case. A DANCO is independent of other probation conditions imposed on the defendant.

It is the presumption that the prosecutor shall *not* request a post-conviction DANCO. The office shall attempt to establish the victim's wishes relative to contact by the defendant. If the victim wishes to have a separate order prohibiting contact by the defendant, the Olmsted County Attorney's Office shall provide a copy of any police reports and court minutes or other documentation necessary for the victim to apply for an Order for Protection (OFP).

**PRESENTENCE DOMESTIC ABUSE INVESTIGATIONS:**

Minnesota Statutes section 609.2244 provides that a domestic abuse presentence investigation "must" be conducted in all QDVRO cases resulting in convictions. Prosecutors shall take care that this statute is implemented.

## **NEGOTIATED DISPOSITIONS:<sup>1</sup>**

The following is a guide for the appropriate plea offers to be made in different levels of domestic violence cases. Any proposed deviation from these offers must be approved by the County Attorney through a Managing Attorney.

### **Misdemeanor Domestic Assault:<sup>2</sup>**

- **First-Time Offenders:<sup>3</sup>** First-time Offenders willing to plead guilty may be offered an opportunity to resolve their matter pursuant to a **stay of adjudication**. Specific terms shall include:
  - Full and accurate factual basis made to the court on the record and in writing attached or made part of the guilty plea petition;
  - Stay adjudication of guilt for up to two years;
  - Probation supervision by Community Corrections;
  - \$300 fee plus appropriate surcharges;<sup>4</sup>
  - \$500 victim services assessment pursuant to Minnesota Statutes section 609.1016;<sup>5</sup>
  - Complete a Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by Community Corrections and follow recommendations;
  - Pay restitution as supported by restitution affidavits;
  - No possession of firearms;
  - No threatening or assaultive behavior;
  - Abide by any existing Orders for Protection or Harassment Restraining Orders;
  - Obey the law in all respects.
  
- **Pre-trial Disposition:** Misdemeanor offenders who do not qualify for the first-time offender offer above may be offered an opportunity to resolve their matter prior to trial pursuant to a **stay of imposition**. Specific

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<sup>1</sup> It is understood that a person's criminal history score must be considered in all negotiated settlements. All felony-level charges that are encompassed by this policy are severity-level four offenses. Persons with more than two points should have additional jail time added to the jail sanction of the underlying dispositional alternative.

<sup>2</sup> Though these offers specifically cover cases of domestic assault, they should inform negotiation in violations of orders for protection, harassment restraining orders, and domestic abuse no contact orders. Prosecutors must be mindful of and incorporate statutory sentencing provisions for these offenses. *E.g.*, MINN. STAT. § 518B.01, subdiv. 14 (requiring minimums sanctions for OFP violations).

<sup>3</sup> A first-time offender is a person who has not previously been charged with a QDVRO. Persons who have been previously charged shall *not* be considered first-time offenders, even if their previous case was dismissed or resolved as a lesser offense.

<sup>4</sup> Where applicable, the Olmsted County Attorney generally does not object to an offender's request to complete an equivalent amount of community work service in lieu of paying a fine.

<sup>5</sup> Per statute, the Court may waive or reduce the victim service assessment upon a showing of indigency or hardship. It shall be the policy of the Olmsted County Attorney's Office to request payment of the assessment in every case. However, defendants may present evidence of indigency or hardship at the plea hearing, leaving the Court to determine payment in each case.

conditions of probation shall be similar to those listed for first-time offenders.

- **Post-trial disposition:** For those offenders who are found guilty at a trial, the prosecutor shall recommend an *imposed* jail sentence with at least some of that sentence executed. The specific amount of jail time shall be based on the severity of the offense, the defendant's conduct during the trial, and all other relevant circumstances.

#### **GROSS MISDEMEANOR INTERFERENCE WITH AN EMERGENCY CALL:**

Interference with a victim's call for assistance raises the lethality of a domestic assault. It is presumed the legislature recognized that risk when determining the level of crime for that conduct.

- **Early Disposition Alternative:** In those cases where the offender is also charged with misdemeanor domestic assault and would be considered a first-time offender as defined above, the offender may be offered the **Misdemeanor Domestic Assault First-Time Offender Disposition** described above. This disposition shall *only* be available until the date of the omnibus hearing.<sup>6</sup> It shall not be available after that date without the consent of the County Attorney through the Managing Attorney.
- **Pre-Trial Disposition:** Offenders who did not choose the Early Disposition Alternative or who did not meet the definition of a "first-time offender" may be eligible for the **Misdemeanor Domestic Assault Pre-Trial Disposition**.
- **Post-Trial Disposition:** For those offenders who are found guilty at a trial, the prosecutor shall recommend an *imposed* jail sentence with at least some of that sentence executed. The specific amount of jail time shall be based on the severity of the offense, the defendant's conduct during the trial, and all other relevant circumstances. The recommendation should reflect the gross-misdemeanor level of conviction.

#### **GROSS MISDEMEANOR DOMESTIC ASSAULT:**

The Olmsted County Attorney recognizes that persons charged for gross misdemeanor domestic assault have a prior conviction on their records. The Olmsted County Attorney presumes that anyone with a prior conviction has been afforded the opportunity for counseling and other interventions.

- **Early Disposition Alternative:** Prior to the omnibus hearing, offenders may be offered an opportunity to resolve their matter as a **misdemeanor domestic assault with a stay of execution of sentence**. This

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<sup>6</sup> In 2025, the Olmsted County judiciary began referring to the first hearing after the Rule 8 appearance as a "settlement conference." When this Policy refers to an "omnibus hearing," that phrase shall be construed to include these settlement conferences, irrespective of the label.

disposition will be available until the omnibus hearing. After that date, a misdemeanor disposition *shall not* be available without the consent of the County Attorney through the Managing Attorney. Specific terms shall include:

- Plead guilty to an amended charge of Misdemeanor Domestic Assault;
- Stay execution of a 90-day sentence for up to two years;
- Full and accurate factual admission to the elements of the offense;
- Probation supervised by community corrections;
- Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by Community Corrections and follow recommendations;
- \$300 fine plus appropriate surcharges;
- \$500 victim service assessment pursuant to Minnesota Statutes section 609.1016.
- Pay restitution as supported by restitution affidavits;
- No possession of firearms;
- No threatening or assaultive behavior;
- Abide by any existing Order for Protection or Harassment Restraining Order;
- Obey the law in all respects.

➤ **Pre-trial Disposition:** Offenders who did not choose the Early Disposition Alternative above may be offered an opportunity to resolve their matter prior to trial pursuant to a **stay of imposition of a gross misdemeanor sentence**. Specific conditions shall include:

- Stay imposition of sentence for up to two years;
- The State will recommend twenty days of executed jail time as an immediate sanction, of which 96 hours must be served consecutively;<sup>7</sup>
- Full and accurate factual admission to the elements of the offense;
- Probation supervised by Community Corrections;
- \$1000 fine plus appropriate surcharges;
- \$750 victim service assessment pursuant to Minnesota Statutes section 609.1016;
- Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by Community Corrections and follow recommendations;
- Pay restitution as supported by restitution affidavits;
- No possession of firearms;
- No threatening or assaultive behavior;
- Abide by any existing Order for Protection or Harassment Restraining Order;
- Obey the law in all respects.

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<sup>7</sup> See MINN. STAT. § 609.2243, subdiv. 1 (stating the mandatory minimum sentence for gross misdemeanor domestic assault).

- **Post-Trial Disposition:** For offenders found guilty at trial, the Olmsted County Attorney's Office shall recommend an *imposed* jail sentence with a *substantial* amount of that sentence executed. The specific amount of jail time shall be based on the severity of the offense, the defendant's conduct during the trial, and all other relevant circumstances. But in any event, the State will recommend at least 30 days of executed jail time.

**FELONY DOMESTIC ASSAULT BY STRANGULATION:**

- **Early Disposition Alternative:** First-time offenders<sup>8</sup> may be offered an opportunity to resolve their matter with a **misdemeanor conviction**. The window of opportunity for this disposition shall only be available until the omnibus hearing. Beyond that window, a misdemeanor *shall not* be available without the consent of the County Attorney through the Managing Attorney. Specific terms shall include:
  - Full and accurate factual basis made to the court on the record and in writing attached or made part of the guilty plea petition;
  - Stay execution of a 90-day sentence for up to two years;
  - Probation supervision by Community Corrections;
  - \$600 fine plus appropriate surcharges;
  - \$500 victim services assessment pursuant to Minnesota Statutes section 609.1016;
  - Complete a Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by Community Corrections and follow recommendations;
  - Pay restitution as supported by restitution affidavits;
  - No possession of firearms;
  - No threatening or assaultive behavior;
  - Abide by any existing Orders for Protection or Harassment Restraining Orders;
  - Obey the law in all respects.
  
- **Pre-Trial Disposition:** Offenders who did not choose or did not qualify for the Early Disposition Alternative above may be offered an opportunity to resolve their matter with a **stay of imposition of sentence**.<sup>9</sup> Specific terms shall include:
  - Plead guilty to domestic assault by strangulation;
  - Stay imposition of sentence;
  - The State will recommend not more than 30 days as an immediate jail sanction; and
  - All other terms of disposition left to the discretion of the Court following a presentence investigation.

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<sup>8</sup> See *supra* n. 3.

<sup>9</sup> This presumes that the Minnesota Sentencing Guidelines call for a presumptively stayed sentence. If the Guidelines call for an executed sentence, the prosecuting attorney should consult with a managing attorney. See *supra* p. 1 (stating that prosecutors should consult with the managing attorney when an offender's criminal history makes a case unusually egregious).

- **Post-Trial Disposition:** The Olmsted County Attorney's Office shall recommend a disposition pursuant to the Minnesota Sentencing Guidelines for offenders who are found guilty at trial. If the presumptive disposition is a stay, the Olmsted County Attorney's Office shall recommend the stay be in the form of a stay of execution with a *substantial* immediate jail sanction, which in any event will be no less than 60 days.

#### **FELONY DOMESTIC ASSAULT:**

The Olmsted County Attorney recognizes that persons charged with felony domestic assault have prior convictions on their records. The Olmsted County Attorney presumes that anyone with a prior conviction has been afforded the opportunity for counseling and other interventions.

- **Early Disposition Offer:** Defendants who have not previously been charged with a felony<sup>10</sup> may be offered an opportunity to resolve their matter as a **gross-misdemeanor domestic assault**. This option is only available until the omnibus hearing. Beyond that window, a gross-misdemeanor disposition will *not* be available without the consent of the County Attorney through the Managing Attorney. Specific terms shall include:
  - Plead guilty to an amended count of gross-misdemeanor domestic assault in violation of Minnesota Statutes section 609.2242, subdiv. 2.
  - Full and accurate factual admission to the elements of the offense;
  - Stay execution of a 364-day sentence for up to two years;
  - The State shall recommend twenty days of executed jail time as an immediate sanction, of which 96 hours must be served consecutively;<sup>11</sup>
  - \$1000 fine plus appropriate surcharges;
  - \$750 victim service fee pursuant to Minnesota Statutes section 609.1016;
  - Probation supervised by community corrections;
  - Complete a Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by Community Corrections and follow recommendations;
  - Pay restitution as supported by restitution affidavits;
  - No possession of firearms;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order;
  - Obey the law in all respects.

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<sup>10</sup> If an offender has taken advantage of this disposition alternative in a previous case, the offender will not be given the opportunity for this disposition again.

<sup>11</sup> See MINN. STAT. 609.2243, subdiv. 1 (stating the mandatory minimum sentence for gross misdemeanor domestic assault).

- **Pre-trial Disposition:** Offenders who did not choose or qualify for the Early Disposition Alternative above may be offered an opportunity to resolve their matter prior to trial with a **stay of imposition of sentence**.<sup>12</sup> Standard conditions shall include:
- Stay imposition of sentence for up to five years;
  - The State will recommend 45 days as an immediate jail sanction, with at least 15 days to be served consecutively;<sup>13</sup>
  - Full and accurate factual admission to the elements of the offense;
  - Probation supervised by community corrections;
  - \$3000 fine plus appropriate surcharges;
  - \$1000 victim service assessment pursuant to Minnesota Statutes section 609.1016;
  - Complete a Domestic Violence Inventory (DVI) and any other evaluations as deemed appropriate by Community Corrections and follow recommendations;
  - Pay restitution as supported by restitution affidavits;
  - No possession of firearms;
  - No threatening or assaultive behavior;
  - Abide by any existing Order for Protection or Harassment Restraining Order;
  - Obey the law in all respects.
- **Post-trial disposition:** The Olmsted County Attorney's Office shall recommend a disposition pursuant to Minnesota Sentencing Guidelines for offenders who are found guilty at trial. If the presumptive disposition is a stay, the Olmsted County Attorney's Office will recommend a Stay of Execution with a *substantial* jail sanction, which in any event shall be no less than 90 days.

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<sup>12</sup> This presumes that the Minnesota Sentencing Guidelines call for a stayed sentence. *See supra* n. 9.

<sup>13</sup> *See* MINN. STAT. § 609.2243, subdiv. 2 (stating the mandatory minimum penalty for felony domestic assault).