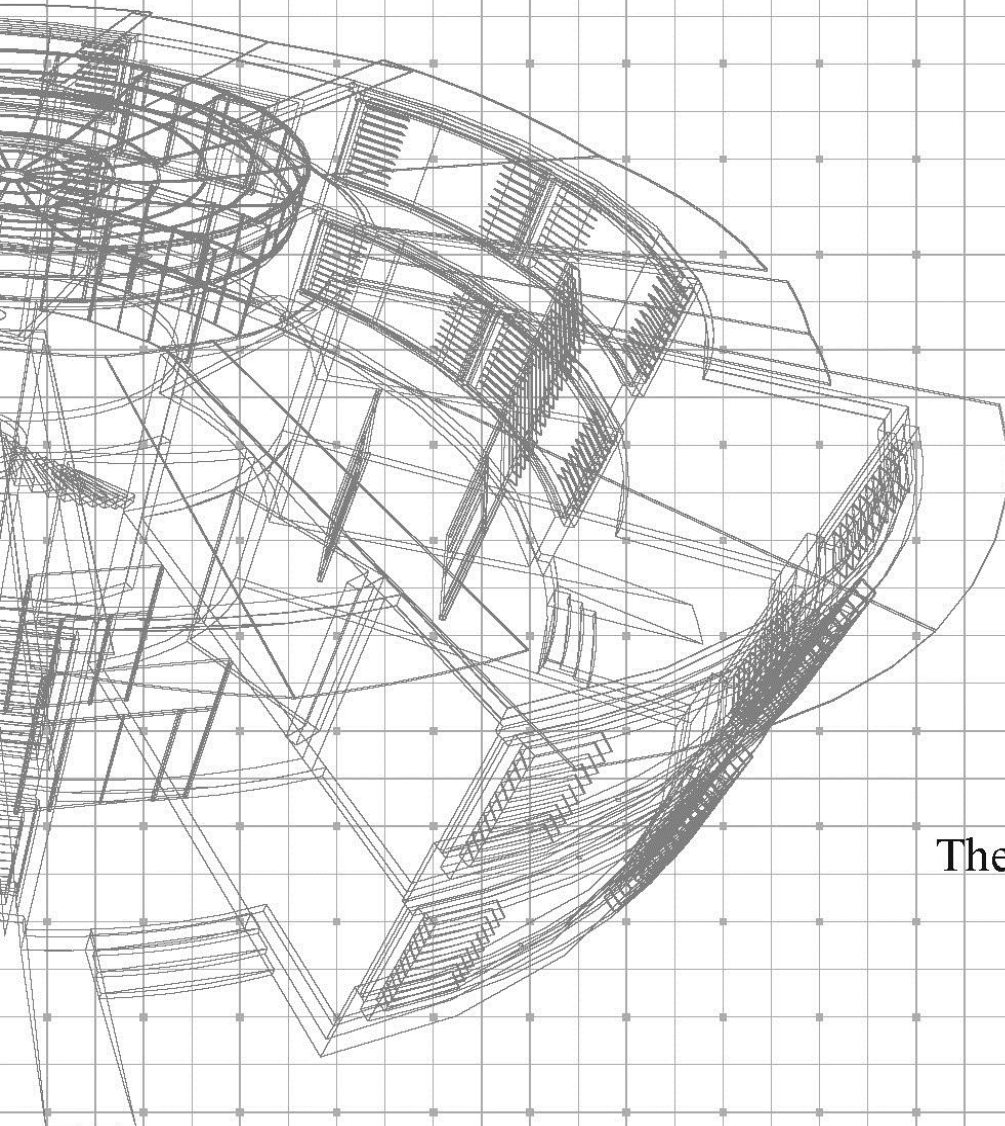


## CHAPTER 7

# Pretrial and Probation

Arrowhead Regional Corrections, Duluth Office



The Duluth  
**blueprint**  
*for* **safety**

# Pretrial and Probation

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## Arrowhead Regional Corrections, Duluth Office: Procedures for Domestic Violence Related Cases

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### Introduction

Probation plays a critical role at both the beginning of a criminal domestic assault case supervising conditions of release and at the end supervising conditions of the sentence. In all phases of probation's role in a domestic assault case, victim safety and engagement are central to how an agent supervises offenders. The following are victim engagement guidelines that inform an agent's actions during all phases of case supervision. Agents understand that when victims are viewed as their primary concern as opposed to the offender, safety and accountability will be easier to achieve.

Work in collaboration with victims, cognizant of the principle of “continuing engagement.”

- Whenever possible, minimize the victim's need to confront the offender.
- When using information provided by the victim, protect her or him from retaliation by not identifying the victim as the source of the information.
- Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
- Be mindful of the complex and often dangerous implications of a victim's collaboration with interveners.
- Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to “tell all,” although they may do so in unguarded moments. Take great care to not endanger victims with what they have shared about their lives.
- Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him as simply an information source.
- In order to avoid unintentionally replicating or reinforcing the actions of the abuser, offer a clear alternative to messages that the victim is crazy, at fault, unbelievable, and unable to make decisions and that the abuser is unstoppable.

In addition to adhering to general policy and protocol, probation officers in the Duluth Domestic

Violence Unit will follow the procedures in this document.

- Procedure 1: Conducting Pretrial Release Evaluations
- Procedure 2: Supervising Defendants on Conditional Release
- Procedure 3: Conducting Presentence Investigations
- Procedure 4: Victim Engagement and Presentence Investigations
- Procedure 5: Supervising Domestic Violence Offenders on Probation
- Procedure 6: Probation Violations and Revocation of Probation
- Procedure 7: Administering and Supervising the Duluth Domestic Violence Unit's Response to Domestic Violence Cases

### **Procedure 1: Conducting Pretrial Release Evaluations**

Re-offending is common in domestic violence cases soon after the arrest. The conditions of release should place controls on the defendant's behavior that will aid in enhancing the safety of the victim and make re-offense less likely. Defendants who are thought to pose a high level of risk to the victim or others should receive more intensive monitoring through frequent and/or in person reporting. Supervised release agents should remain alert to a defendant's violation of no-contact orders and intimidation of the victim. Agents should respond promptly to any violations by revoking their release and bringing them in front of the judge. Actions by the defendant that may not seem to directly affect safety may indicate increasing risk to the victim. Pay attention to love notes, flowers, gifts to children, apologies, or ultimatums (all or nothing choices).

1. Review the Domestic Violence Response Team (DVRT) file to obtain the arrested person's criminal and protections order history, 911 CAD reports, and in CSTS past and previous presentence evaluations. Sources:
  - DVRT file
  - Court Services Tracking System (CSTS)
2. Attempt to contact the victim in the case using the following sources:
  - Phone numbers listed in police report
  - Local advocacy programs
- a) Attempt to gather the following information:
  - The circumstances, context and severity of the abuse.
  - The victim's opinion about what pre-trial release conditions would be most helpful in addressing safety for her/him and children.
  - Whether the victim wants a Domestic Abuse No Contact Order (DANCO).  
Explain what a DANCO is. If the victim does not want such an order, ask what

- hardship the DANCO would create.
  - Financial considerations that would be impacted by conditions of release.
  - If and where the suspect is employed.
  - If the victim has been pressured to not participate in the processing of the criminal case. If so, explain witness tampering and options for reporting.
  - Ask about keeping all or some information confidential from the court.
- b) Inform the victim of the following:
- The jail will call to inform her of his release.
  - The number and services of local advocacy programs.
3. Interview the arrested person and determine:
- Where he or she lives and for how long at that address. If less than three months, find out the address of the previous address.
  - If defendant is currently on conditional release, probation or parole.
  - Check the DVRT file for any previous order for protection or harassment orders and review affidavits.
  - Employed or student plus any source of income.
  - Whether or not a current or past member of the armed forces and if the defendant was deployed in combat and for how long. Consider referral to Veterans Court.
  - If defendant has mental health or chemical dependency issues that need to be addressed in conditions of release.
  - Collect names and contact information for victims and employers who can verify the defendant's following information.
    - Where defendant has been living and for how long.
    - Defendant's employment or school enrollment.
    - Length of time defendant has resided in area.
    - Defendant's history of drug and/or alcohol use, if any.
4. Complete and score the Pre-trial Evaluation screening form and document:
- Previous violations of criminal or civil protection orders.
  - If the current charge is enhanced from a previous conviction.
  - Violence summary from DVRT file.
  - Risk detail from DVRT file.
  - See *5E Guide to Bail Setting, Conditional Release and Enforcement*.
5. Attend arraignments of in-custody defendants and present pre-trial evaluation
- Make diligent efforts to notify the victim of the bail review (pursuant to Minn. Stat. § 629.725).
  - Complete and present the pre-trial evaluation, after reviewing information from the

DVRT file.

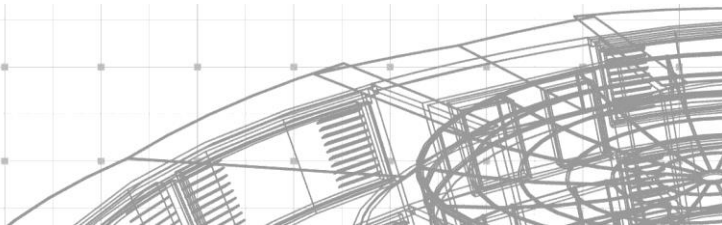
- The victim's or the victim's family's account of the alleged crime (pursuant to Minn. Stat. § 629.715 and Minn. Stat § 629.72) is conveyed in the police report and represented in the DVRT file to the judge.
  - In cases of higher risk, request a verbal presentation with the judge to convey concerns regarding the dangers the defendant has and does pose to the victim.
- a) Additionally, when appropriate, inform the judge of specific concerns related to:
- The nature and impact of the current offense
  - Any information about past violence uncovered in the evaluation
  - Whether the defendant has previously violated civil protection orders or orders prohibiting contact issued as part of a criminal proceeding.
- b) Inform the judge of:
- The victim's wishes and concerns regarding conditions of release, with particular attention to the issuance of a DANCO. If victim doesn't want a DANCO, convey to the court what hardships it would create for the victim.
  - Victim's concerns about hers and the children's safety.
  - Whether the defendant is currently on conditional release from another pending domestic violence-related offense.

## **Procedure 2: Supervising Defendants on Conditional Release**

1. Implement and enforce the judge's decision.
  - a) Hold the defendant for court or complete a pre-trial release agreement with a domestic abuse no-contact order.
  - b) If the judge orders other conditions of release, add these to the pre-trial release agreement and serve the defendant a copy and explain the conditions
  - c) If the judge orders conditional release, inform the victim of the judge's decision.
    - i. Attempt to inform the victim of the conditions of release before the defendant is released from jail either in person, by phone or by letter that includes:
      - A copy of the conditional release order
      - Information regarding the issuance of a no-contact order
      - Inform the victim if the defendant has been ordered not to drink alcohol ("no-drink")
      - The date and time of the next court hearing
      - Information regarding how to report violations of conditional release and the phone number for pretrial services, except in cases on warrant from another county. Follow up with an explanatory letter and copies of any no-contact

orders issued by the court and whether there is a no drink as part of defendant's release conditions.

- d) Work in collaboration with victims, cognizant of the principles of continuing engagement.
  - Incorporate the victim's concerns regarding her or his safety and that of children into the pre-trial evaluation.
  - Convey to the court the victim's wishes regarding contact with the defendant with specific information about reason why the imposition of a DANCO might pose a hardship.
  - If a pre-trial release is ordered by the court, make the attempt to provide the victim by phone with contact information for the pre-trial agent, as well as a written explanation of how to report violations of pre-trial release.
  - If it appears that the defendant is a victim of ongoing abuse (battering), refer to an advocate.
2. If a pre-trial release and no contact is ordered, meet with the defendant following the court hearing and reinforce the conditions of release, the importance of following the court's orders and possible consequences for violations, and when and how to contact pre-trial services.
3. Determine the frequency and manner of contact. In cases of high risk to the victim, consider putting defendant on high risk list for field visits and increased supervision.
4. Schedule an initial report date for defendants who are on conditional release in domestic violence-related offenses. During the pre-trial meeting, the agent will do the following:
  - a) Explain conditions of release and emphasize the importance of compliance with conditions—including DANCOs—and the consequences of violations.
  - b) Have the defendant sign any required releases of information required.
  - c) If the court has ordered a chemical health assessment, provide the defendant with information about where to go and when it must be completed.
  - d) If the court has ordered random drug or alcohol testing, provide information about how and where the testing will take place.
  - e) If a mental health evaluation is required, provide information about where that will be conducted and the time frame for completion.
  - f) If the court has ordered that the defendant take psychotropic medications as prescribed, ensure that the defendant has executed a release of information for the agent to talk with the doctor about medication compliance, unless the judge orders another method of monitoring.
5. Provide other community referrals to defendant as deemed appropriate by the pre-trial



release agent or requested by the defendant, e.g., assistance with finding employment, housing, counseling, medical care, education, men's programming.

6. Refer victim to the local advocacy program and other community resources.
7. Respond promptly to calls from victims and diligently attempt to return messages.
8. Thoroughly document in the case notes all contacts with the defendant, the defendant's compliance with conditions, contacts with the victim, and actions taken by the pre-trial release agent.
9. Respond promptly to violation of pre-trial release not directly related to victim or community safety in accordance with *5E Guide to Bail Setting, Conditional Release and Enforcement*.
  - a) These violations include:
    - Failure to report or call in
    - Failure to execute required releases
    - Failure to complete a chemical and/or mental health assessment
    - Failure to take prescribed medications
    - Any other violation not related to victim safety or the safety of the community
  - b) First: Evaluate the seriousness of the noncompliance, taking into account the nature of the condition, the reason for the noncompliance, the seriousness of the violation, the defendant's compliance history, and information about dangerousness gleaned from the risk assessment and bail memo, pre-trial release information about dangerousness.
  - c) Second: Determine the appropriate course of action. The pre-trial release agent may elect to handle the violations with internal sanctions.
  - d) Possible sanctions:
    - Verbal warning
    - Written warning letter
    - Increase frequency of phone contact
    - Place on the high risk offender list for random field visits
    - Required in-person reporting
    - Increased frequency of in-person reporting
    - In the case of non-compliance with medications, require the defendant to report to pre-trial services and take medications in the presence of a conditional release officer or other staff member.
    - If the defendant is high risk and violates even a minor condition, agent may request a warrant for a violation of probation.

- e) If the defendant's whereabouts are unknown or if the violation raises concern about the victim's safety, request a warrant.
10. Respond promptly to drug or alcohol related violations of pre-trial release:
- a) Drug testing violations include any of the following:
    - Reports and tests positive (after baseline)
    - Fails to report
    - Reports and is unable or refuses to submit a sample
    - Reports and submits a sample for which there is a suspicion of tampering (includes "dilutes")
    - NOTE: Failure to report and failure to cooperate with testing are viewed as significant because they are often indicative of active drug use by the defendant.
    - When a defendant appears for testing but says he or she is unable to submit to a sample, every effort shall be made to facilitate the defendant's successful submission of a sample.
11. Respond promptly to violations of conditional release related to violence or safety in accordance with *5E Guide to Bail Setting, Conditional Release and Enforcement*. See 1A Practitioners' Guide to Risk and Danger in Domestic Violence Cases.
- a) Violations related to violence or safety may include any of the following:
    - Failure to surrender firearms (for those defendants not otherwise prohibited by law from possessing firearms)
    - Failure of drug or alcohol tests
    - A new offense (whether or not the new offense has been charged), including:
      - Violation of DANCO, no contact, or stay away orders
      - New assault or violent crime
      - Prohibited person in possession of firearm or ammunition
      - Other criminal offense
  - b) Review the court calendar daily to determine if a defendant already on conditional release has been re-arrested and is appearing on a new charge. Obtain the police report and review the facts alleged in the report.
  - c) Take action according to whether the case is in-custody or out-of-custody.
    - In-Custody Cases:
      - Prepare the warrant and revoke pretrial release with the specific conditions that were violated.
      - Be present to address the violation with the court.
    - Out-of-Custody Cases:
      - If a victim has reported a violation of pre-trial conditions and want to make a



formal complaint, advise the victim to call the police and file a police report. Obtain the police report.

- If the probation officer learns through other means, e.g., probation or police response to a gone-on-arrival case, obtain the police report.
- Prepare a violation report requesting an arrest warrant outlining the conditions of release and the violation(s). Complete the necessary paperwork for activating an arrest warrant.
- If the judge signs the warrant: (1) contact the victim to let them know a warrant has been issued; (2) close the file.
- If the judge declines to sign the warrant: (1) Consider Increasing the level of monitoring of the defendant; (2) document the violations for the file and provide the information to the presentence investigation writer when appropriate; and (3) continue to monitor the defendant's compliance and report any new violations to the appropriate judge.

12. Court hearings for violations of conditional release

- a) Prepare and distribute to the court, the pre-trial warrant. See Guide to Bail Setting, Conditional Release, and Enforcement.
- b) Be present at the hearing and be prepared to respond to questions about the warrant and recommendations.
- c) Discuss violations with the prosecutor if present and defense attorney, with particular emphasis on those violations that pose a risk to victim or community safety. Even if not ordered by the court, increase monitoring as permitted by state law if defendant is released.
- d) If agent can't contact victim, contact advocates as a way to relay information and send letter.

13. Work in collaboration with victims, cognizant of the principles of continuing engagement. Whenever possible, minimize the victim's need to confront the offender.

- a) When using information provided by the victim, talk through with the victim how to best use the information she provides to lessen the risk to her.
- b) Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
- c) Be mindful of the complex and often dangerous implications of a victim's collaboration with interveners.
- d) Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to "tell all," although they may do so in unguarded

moments. Take great care to not endanger victims with what they have shared about their lives.

- e) Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him as a data point.
- f) In order to avoid unintentionally replicating or reinforcing the action of the abuser, interveners must offer a clear alternative to messages that the victim is crazy, at fault, unbelievable, and unable to make decisions, and that the abuser is unstoppable.

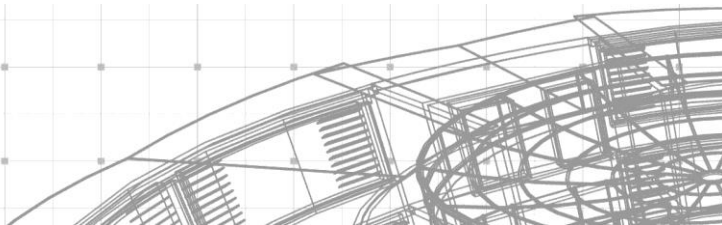
### **Procedure 3: Conducting Presentence Investigations in Domestic Violence-Related Cases**

The presentence investigation provides the court with the background information needed to consider any plea agreement in relation to safety, accountability, and rehabilitation; and to make an informed decision regarding whether to accept or reject the plea agreement. The DVRT File, more than any other set of documents, can provide interveners with the best institutional understanding of (a) who is doing what to whom and with what impact, (b) who is likely to do harm in the future, (c) the likely level of continued harm and (d) and an idea of what sanctions by the state and community are most likely to reduce the likelihood of future harm.

The *Blueprint for Safety* is intended to create a standard that ensures fairly similar recommendations using gathered institutional knowledge regardless of the agent handling the case. The PSI process is the most intentional, thorough, and comprehensive opportunity to pull the institutional knowledge of a case together in a coherent summary to make a well-founded set of recommendations to the court.

Conduct the PSI cognizant of the role of probation to work with offenders who pose a risk to the public-in domestic violence cases a specific member of the public and potential future victims-and reduce that risk to whatever extent possible while offering the probationer an opportunity to change abusive behaviors.

1. Make diligent efforts to obtain records of the instant offense and history of domestic abuse from the sources listed below:
  - a) 911 CAD report or call transcript
  - b) NEMESIS Report (Northeastern Minnesota Enforcement and Safety Information System).
  - c) Probation Alert (statewide supervision system).
  - d) Initial patrol officer reports
  - e) DVRT file
  - f) Follow-up investigative reports (including statements by victims, witnesses and defendant; plus risk assessment information from the DVRT team.
  - g) Medical reports

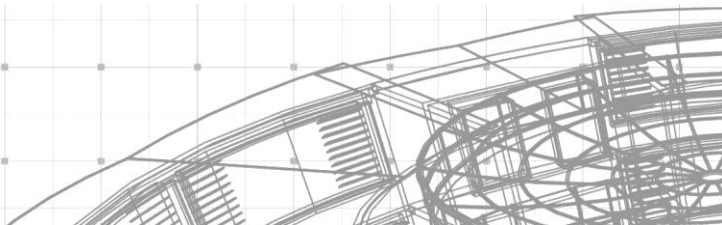


- h) Order for Protection affidavits describing the need for protection related to any victim (see DVFT file).
    - i) A description of the instant offense from separate interviews with the offender and victim.
  2. Obtain reports related to the history of domestic violence-related behaviors used by the defendant against this or other victims regardless of conviction.
    - a) 911 calls/CAD reports involving the defendant in other reported domestic abuse-related events.
    - b) DVRT file.
    - c) Prior PSIs.
    - d) Reports from DAIP classes used by the offender.
    - e) Juvenile probation and court records.
    - f) PSI writer interviews with defendant and victim.
  3. After being assigned the case, collect the case file from the County Attorney and if a city case, get file from court administration.
  4. Locate the current contact information for the victim and information they have pertinent to sentencing and if the victim expressed a desire to file for restitution. If contact information is incorrect, contact victim witness staff in the County Attorney's Office or prosecutors in the Duluth City Attorney's Office.
  5. In the comments section of the PSI, document and address aggravating circumstances which are not confidential related to any action or circumstance described in the Practitioner's Guide to Risk and Danger in Domestic Violence Cases. The documentation should allow the PSI reader to put the instant offense into a larger context of abuse, if it exists. Put any confidential information from the victim or other sources in the confidential section of the PSI.
    - a) Address the violence and abuse in the instant offense first and then make visible what is known about a pattern of abuse by the offender.
    - b) Provide a brief summary or use excerpts from previous documentation (See History of Domestic Violence Summary), noting the date and source of the information. Be as explicit as possible about the presence of risk factors, acts or coercion, intimidation, violence, or aggression.
    - c) Focus the aggravating circumstances of those factors identified as dangerous in the appendix, Practitioners' Guide to Risk and Danger in Domestic Violence Cases. Pay attention to:
      - o The full scope of domestic violence-related behaviors used by the offender.
      - o Frequency and any changes in the pattern of violence and related abusive behaviors.
      - o Any apparent patterns in the circumstances under which the violence or abuse

- occurs or if the violence is increasing in frequency or severity.
  - Extent to which others are drawn into the abuse, including immediate and extended family members, clans, friends and associates, gang affiliates
  - Use of children against the victim or direct aggression toward children in this or past relationships.
  - Other agencies involved with the offender or victim in relation to the domestic violence
  - Relationship of mental illness, alcohol and/or drug abuse to defendant's actions and past efforts to seek help
6. Using the sources of information noted previously, document the mitigating circumstances as applicable to the case. Mitigating circumstances include the lack of a pattern of ongoing coercion and violence. Pay particular attention to any information that suggests the defendant is an ongoing victim of domestic violence by the person she or he has assaulted. Consider any information that indicates the violence might be related to mental illness or trauma and not directed toward a specific person.
  7. Write a recommendation for sentencing and conditions of probation. Make the PSI readily available for review by the prosecution and defense attorneys in advance of the sentencing date.

#### **Procedure 4: Victim Engagement and Pre-sentence Investigations**

1. Use all contacts with the victim to relay the messages of the interagency approach: (a) the focus is on the defendant's actions and behaviors and the resulting harm; (b) interveners are there to help, protect, and build safety; and (c) offenders will be held accountable and offered opportunities to change violent and abusive behavior.
2. Use the interview to increase the victim's understanding of (a) coercion, intimidation and battering in relationships, (b) factors that contribute to risk and danger, (c) available resources to victims, and (d) the role the probation officer can play in victim safety.
3. Be prepared for a strong sense of mistrust or even hostility toward the system by the victim and work in ways to build trust over time.
4. Inform the victim of the probation office goals regarding public safety, victim safety, and offender accountability and rehabilitation.
5. Make diligent efforts to contact the victim prior to the supervising agent's first meeting with the offender in order to begin building a collaborative relationship between the victim and the probation office to hold the probationer accountable and keep the victim safe.
6. As part of the presentence investigation process, obtain or verify contact information from victim/witness staff and make diligent efforts to interview the victim in order to:



- a) Obtain context concerning the frequency, severity, and circumstances surrounding the use of violence, coercion, abuse, and intimidation as documented in the police report.
  - b) Obtain information about the impact of the instant offense and the surrounding abuse and violence on the victim as documented in the police report answers to the risk questions. Additionally, ask about the following:
    - o Harm to victim's relationship with her/his children confidential in the PSI
    - o Harm to her/his children
    - o Harm to family and associates such as friends, coworkers, neighbors.
    - o Economic harms like loss of housing, job, car, health insurance, etc.
7. Explore whether the victim wishes to provide a victim impact statement to the court. Inform the victim that she can call The Safe Haven Resource Center for assistance in filling this out.
  8. Obtain the victim's input on the (a) sentence, (b) restitution, (c) conditions of probation. Invite victim's views on:
    - a) Time to serve.
    - b) Limited or no contact with the victim or victims.
    - c) Treatment services for battering, chemical dependency, and mental illness.
    - d) Conditions which could provide protection for the victim.
    - e) Specialized counseling related to chemical dependency, depression, sexual deviance, and childhood trauma.
  9. Encourage victims to consider reporting all acts of intimidation, coercion, and threats or acts of violence to probation.
  10. Use the interview with the victim to increase your understanding the victim's capacity for self-protection which informs the overall risk management of the offender.
  11. Ensure that victims have information about how probation will be involved with the victim and the offender to:
    - a) Check on the victim's welfare.
    - b) Review with the victim the probation conditions.
    - c) Check on the offender's compliance with probation conditions.
  12. Encourage victims to keep the supervising agent informed of changes in their lives related to their safety and the offender's compliance.
  13. Extend to victim a link to confidential advocacy services.
    - a) Provide victim with information that they can talk confidentially with an advocate should the need arise, and encourage an initial connection if the victim has no advocate.

- b) When victims want to talk confidentially about the circumstances of their case and need to problem solve refer them to the services offered by local community advocacy programs.

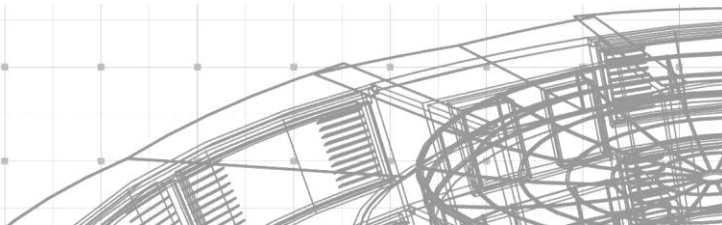
## **Procedure 5: Supervising Domestic Violence Offenders on Probation**

### **Scope**

The research is clear on the deterrent effects of close probation supervision of domestic violence probationers coupled with sure and swift responses to all violations: such a response can reduce future abuse. The probation agent manages risk fourfold: (1) to work with the probationer to help change behaviors that have resulted in a conviction; (2) to stay aware of signs that the abuse and violence might be reoccurring; (3) to find the right (and available) kinds of rehabilitation programs; and (4) to act swiftly each time the probationer violates the controls over his or her abusive behaviors. Our collective interagency approach is designed to reduce the inclination of the offender to use violence against the victim, both the current victim and any subsequent partner in the future. Engaging with the victim helps probation agents understand what makes the ongoing situation dangerous and what particular signs might signal reoccurring violence. The supervising probation agent is the only practitioner in the system that develops an ongoing relationship with the probationer. As such, the probation agent is best-positioned to relay and reinforce the messages intended by the overall response: change is possible, being accountable is the first step toward change, continued abuse will not be tolerated, and there is a network of help available to support a probationer's efforts to change abusive behavior.

### **Gathering Information**

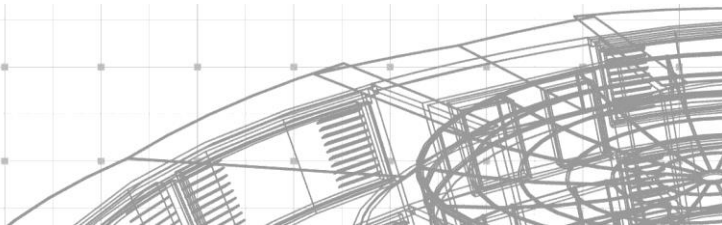
1. Promptly notify the following parties of the probationer's status and probation general conditions including a no drink and the supervising agent's name and contact numbers, using the appropriate notification letter and process.
  - a) The victim if possible prior to first meeting with the probationer. (Under Minnesota law, an adult victim's name is not confidential but the victim's address and phone number are so do not include to other parties without the victim's permission).
  - b) The probationer
  - c) DVRT will forward all in-custody arrests to probation prior to arraignment.
  - d) The local advocacy program if requested by the victim to set up support services during probation period.
  - e) DAIP Men's Nonviolence Program if offender is referred (make copy of probation condition contract and put it in DAIP box at probation).
2. Promptly meet with the probationer to review the following:
  - a) Each condition of probation, both standard and special conditions.



- b) Notifications related to firearms and other weapons restrictions and other prohibitions.
  - c) Process of supervision, including contracting and reporting to the supervising agent.
3. Ensure that the probationer understands the meaning of all probation conditions and the process of supervision by taking the following measures;
- a) Explain and conduct supervision in the probationer's first language or provide interpretation or communication assistance to probationers with limited English proficiency or with hearing or speech disabilities.
  - b) Supervise using language and communication strategies that address the probationer's literacy and cognition level.
  - c) Avoid professional jargon.
4. Ensure that the probationer signs releases which allow:
- a) Release of records
  - b) Include a release that allows agents to inform the victim of his compliance to conditions of probation.
  - c) Require that probationers attend assigned programs as soon as possible.
  - d) Rehabilitation programs to receive conditions of probation.
5. When sharing confidential information from a victim with treatment or other program providers, make clear that confidential information cannot be shared with the offender. Likewise, when receiving information from a service program with permission from a victim, don't share with offender unless the victim has authorized it.
6. Be responsive to situations and behaviors associated with an increased risk for re-offense with probationers who engaged in a patterned use of intimidation, coercion, and violence toward the victim or victims. See, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*. Be aware of the following factors that often proceed new assaults:
- a) Inability of probationer to stop excessive drug or alcohol use
  - b) The victim making a permanent break with the probationer
  - c) The victim entering a new relationship
  - d) The victim cooperating with any adversarial legal action against the probationer
  - e) Obsessive behaviors toward the victim or children
  - f) Stalking or surveillance of the victim or her/his family and/or friends
  - g) Pressuring his/her way back into the victim's home
  - h) The victim seems unable to speak to the probation officer without fear or exhibits anger toward intervening practitioners.

If these or any other behaviors indicate an increased risk to the victim, consider increased reporting, random UAs, close monitoring of community programming or putting offender on list for high-risk field visits.

7. Be aware of the risk of re-assault to the probationer when she/he has historically been assaulted by the victim in the current offense.
  - a) Indications of victims of abuse who kill their abusers may include:
    - Access or prior use of weapons.
    - More than 10 violent incidents in the last year at the hands of abuser.
    - Prior police intervention in one or more domestic violence calls.
    - Isolation from family and friends.
    - Prior strangulation by abuser.
    - Traditional relationship (married, children, lengthy relationship).
    - Being continually subjected to sexual and or physical abuse by abuser.
    - Increased sense of entrapment.
  - b) Indicators of reoffending include:
    - Inability to stop drug and alcohol use.
    - Probationer's abuser extending the abuse to the children.
    - Probationer experiencing continued sexual and physical abuse by abuser.
    - Increased economic dependence on abuser or financial instability.
8. Be cognizant of and responsive to situations and behaviors associated with an increased risk of violence by probationers with mental health problems.
  - a) Not having access to or not using prescribed medication.
  - b) Becoming homeless.
  - c) Being noncompliant with case management or other mental health programming.
9. Be cognizant of and responsive to situations and behaviors associated with an increased risk of violence by probationers with drug and alcohol addictions or abuse. These include:
  - a) Failure to maintain abstinence when use is associated with violence.
  - b) Failure to complete treatment when use is associated with violence.
  - c) Becoming homeless.
10. Conduct routine monitoring for:
  - a) Compliance with all probation conditions.
  - b) New no-contact orders, orders for protection, and police contact.
  - c) Changes in life circumstances that might indicate risk.





- d) Alcohol and drug use if related to probation conditions or the victim's concerns.
  - e) Participation in and compliance with rehabilitation programming.
11. Whenever any of the following events occur and it is possible to contact the victim, call to check on her or his safety:
- a) Suspected violation of probation.
  - b) A new no-contact order, DANCO, Order for Protection (OFP) or Harassment Restraining Order (HRO).
  - c) A failed urine analysis.
12. To the extent possible, collaborate and conduct field work for the purposes of:
- a) Monitor the probationer's activity in the community
  - b) Check on the welfare of victims.
  - c) Assist police investigations of new incidents of alleged domestic violence, particularly when the probationer is gone when the police arrive on the initial call and remains at large in the community.
  - d) Assist the police in locating probationers in order to execute warrants.
  - e) Identify probationers needing increased monitoring in the community
  - f) Build relationships in the community with those who might offer resources to defendant victims.
13. When conducting field work, the following guidelines should be considered:
- a) For safety reasons, try to work in pairs.
  - b) Call in on radio prior to door knock with a call back time of 10 -15 minutes.
  - c) If agent believes probationer is present but not opening door, call for law enforcement back-up.
  - d) If probationer doesn't answer door, call and get a location. Go to location or set a time to wait or return when probationer will be back.
  - e) Once in home, explain the visit to probationer.
  - f) Ask who else is in the home and where they are.
  - g) If a targeted visit with two agents, check cupboards, refrigerator, and rooms for alcohol or drugs/paraphernalia.
  - h) If a violation is an arrestable offense, cuff probationer. Inform jail and let them know you will be transporting.
  - i) When transport begins, call 911 and note transport mileage and time.
  - j) Document which probationers were contacted or not, which were taken into custody and for what violations. Document visit record in CSTS (Court Services Tracking System).
  - k) If victim and children are present:

- i. Be aware of conversations with the probationer that might upset children. If so, ask if either the children can go to another room or if the agent and probationer can go to another room.
  - ii. Do not include the victim in conversation unless initiated by the victim. If the victim initiates conversation, politely listen but don't ask questions that might compromise victim safety.
  - iii. If the probationer isn't present but the victim is, inform the victim that you are only there to look for the probationer. Let the victim know the parameters of confidentiality with what she might share with agent.
  - iv. Act in ways that build trust with the victim over time:
    - Listen.
    - Let her know that her safety is your concern.
    - Remind victim of how to contact the probationer's agent.
    - Remind the victim that your goal as an agent is to help the probationer successfully complete probation and live a nonviolent lifestyle.
14. Respond to violations of probation in accordance with Probation Violations and Revocation to ensure sure and swift consequences for continued acts of intimidation, coercion, or violence.
15. Make every attempt to shield the victim or victims from retaliation when taking enforcement action for probation violations.
16. Maintain case notes in sufficient detail, to:
- a) Provide the documentation necessary to consistently monitor and enforce probation conditions.
  - b) Keep other interveners informed of the probationer's actions
  - c) Ensure consistency across a temporary or permanent change in the assigned agent.
  - d) Prepare required reports to the court and other parties.
17. As necessary for any scheduled judicial review hearings, provide the court with periodic updates regarding the offender's compliance with probation.

### **Procedure 6: Processing Probation Violations and Revocation of Probation**

1. On suspicion of a probationer's violation of any condition of probation, investigate to determine if the suspicion is correct, provable, and linked to victim safety (including secondary victims); proceed with the violation any time there is probable cause for the violation and it appears likely that the clear and convincing standard can be met.
2. Consult with a supervisor and, except in extraordinary circumstances, take one of the following actions when it appears the probationer has violated probation:

- a) Respond with a negotiated, non-incarceration option, such as increased reporting, increased monitoring, or residence restrictions, and document the violation and response in CSTS notes.
  - b) Issue a probation officer's order to detain (Blue Warrant, Minn. Stat. § 401.025 or 244.195).
  - c) Return to court for a probation violation proceeding or a sanctions conference report.
3. Consider the following factors when determining the appropriate response to a violation.
- a) Whether the violation is based upon a new allegation of assaultive, threatening, or stalking behavior, or a crime against the property of current or a former victim.
  - b) Ongoing risk assessment to determine factors and behaviors linked to victim safety (Practitioners' Guide to Risk and Danger in Domestic Violence Cases).
  - c) Changes the probationer has made to date.
  - d) General community safety.
  - e) Current and past compliance with probation.
4. If the violation is based upon an allegation of assaultive, threatening, or stalking behavior or a crime against any victim, the property of a current or a former victim, or a violation of no-contact order provision, do not wait for a new charge to be resolved before filing a violation. See Legal Considerations in Probation Violations Based on a New Offense.

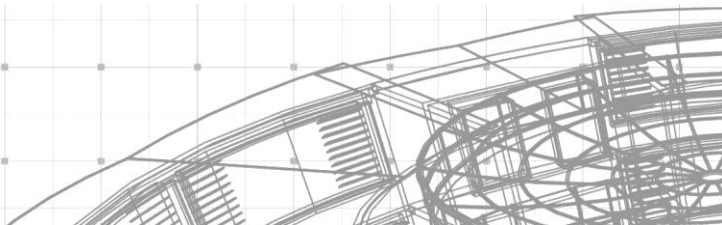
Contact the appropriate prosecuting attorney with notice that a contested violation has been filed. In select high risk cases, request the participation of a prosecuting attorney at the initial appearance. Discuss any prosecution concerns about proceeding with the violation before the new charge and inform prosecutors whether probation is making the following request:

- a) That the probationer be held without bail pending resolution of the probation violation in those cases where the court chooses not to hear the violation before the new charge is resolved (if the defendant does not pose a high risk of a new offense, holding without bail may not be unnecessary).
5. In responding to violations which do not involve allegations of assaultive, threatening or stalking behavior or a crime against the property of the current or a former victim, consider whether a negotiated option or order to detain is an adequate response.
- Except in extraordinary circumstances, recommend a warrant (as opposed to summons) when bringing a violation to court.
6. Discuss the case with the supervisor before filing for a violation hearing if there are doubts about provability.
  7. Prepare the following documents when submitting the violation to the court:

- a) A 72-hour hold
  - b) Recommendation of the Probation Officer and Order Vacating Stay of Execution
  - c) Order of the Court Vacating Stay of Execution of Sentence
  - d) Utilize Arrowhead Regional Corrections Risk Evaluation Form
8. Clearly identify the conditions(s) the probationer is alleged to have violated and detail the ways in which it has been violated. Never place responsibility for an arrest, probation violation, or other consequence on the victim or other third party unless authorized by the victim or third party to do so.
9. Use available opportunities to make it clear that an arrest, probation violation, or other consequence is the result of the probationer's behavior and the probation officer's exercise of her or his authority and duties.
10. In recommending a consequence to the court for a probation violation, consider the issues related to different kinds of domestic violence cases, as addressed in *The Framework for Sentencing, Conditions of Probation, and Revocation of Probation*, and the following guidelines:
- a) The primary consideration should be the effect of continued probation on the safety of the victim (including secondary victims).
  - b) Strongly consider recommending a staggered sentence for part of all of the remaining time whenever the violation involves the factors or behaviors included in the *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*.
  - c) Where revocation is not being recommended, consider what sanctions and additional conditions, if any, are likely to increase victim safety and probationer accountability.
  - d) When the conviction includes a violation of an order for protection and the probationer refuses or fails domestic violence treatment, consider recommending that the sentence be executed pursuant to Minn. Stat. § 518B.01, subd. 14(b).

### **Procedure 7: Administering and Supervising the Duluth Domestic Violence Unit's Response to Domestic Violence-Related Cases**

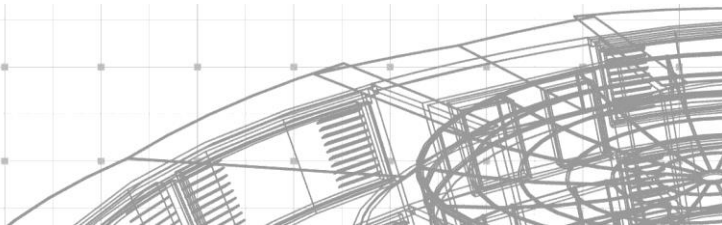
Domestic violence is a complex crime because it encompasses different acts of violence occurring in very different circumstances for a very different reason and a single approach to deterrence will not work. The PSI writer is charged with providing a full picture to the kind of violence, the frequency and severity of violence, and when possible, the circumstances under which the offender is using the violence. This picture illustrates the need for a differentiated response to the court. The probation officer is the linchpin in connecting the interagency approach to reduce the likelihood of further abuse and to assist the probationer with the process of change. The Probation Supervisor has a key role in providing the environment, support, and oversight that makes this response possible.



The Duluth Domestic Violence Unit Probation Supervisor is responsible for organizing the probation response to domestic violence offenders, as noted below, according to respective roles and job functions.

1. Review all PSI reports and provide feedback and guidance to writers.
2. Conduct regular reviews of the probation response to domestic abuse-related cases, with specific attention to enforcement of conditions of probation and the response to violations. Each quarter, review three domestic abuse-related cases by each probation officer assigned to supervise such cases.
  - a) Review each case for compliance with policies and protocols.
  - b) Pay particular attention to whether and how the supervising agent responds to reported or possible violations.
  - c) Meet with the supervising agent as needed to review the results and provide feedback and guidance.
3. Ensure that interpreters are available to the probation officers as needed in communicating with offenders and victims.
4. Ensure that agent referrals to domestic abuse treatment utilize programs that reflect guidelines for maximizing the effectiveness of such programs, including:
  - a) Enrollment in a nonviolence program that complies with the statute requirements in 518.b.02 as soon as possible after the start of probation.
  - b) Swift and certain response for noncompliance with program requirements.
  - c) Strong communication (both verbal and status reports) between the program and probation.
  - d) Combining chemical dependency and domestic abuse programming when probationer is living with or having contact with victim. If probationer is not living with, consider adding nonviolence programming soon after the chemical dependency treatment has begun.
  - e) If a mental health condition exists, ensuring proper treatment for the specific condition. This is not in place of men's nonviolence programming and except in cases of certain mental health conditions (ex. anxiety), require simultaneous programming. If the mental health condition is severe (psychopathic personality), see a therapeutic intervention or incarceration in lieu of nonviolence programming.
5. Work with domestic abuse and other treatment programs to provide sliding fee scales.
6. Be responsible for establishing and monitoring procedures for when victims contact the office prior to assignment of a supervising agent.

7. Maintain a current list of community programs to which offenders and victims can be referred for assistance.
8. Provide or arrange for specialized training for probation officers recommended in partnership with the DAIP, including training on conducting the presentence investigation and supervising offenders in domestic abuse-related cases.
9. Update policies, protocols, and training memos annually to reflect changes in law.
10. Assess the availability of accessible programs for offenders on probation in domestic abuse-related cases, including:
  - a) Reasonable waiting lists
  - b) Accommodation of language
  - c) Accommodation of cognitive and physical disabilities
  - d) Cultural accessibility
  - e) Geographic accessibility
  - f) Financial access
  - g) Programming that addresses multiple needs
11. Work with other agencies to ensure efficient and timely access to records by probation agents, including access to records related to:
  - a) Court proceedings
  - b) Past probation PSIs and case notes
  - c) Criminal history
  - d) Any new police contact
  - e) Past and current protection or harassment order affidavits and outcomes
  - f) Past police reports related to domestic violence on the probationer
  - g) Child protection reports relevant to the probationer's domestic violence offenses
  - h) Juvenile court records
12. Conduct program evaluation and quality control specific to Blueprint policies and protocols and communicate with probation officers to clarify and reinforce policies and procedures.
13. Institute a combination of hiring practices and/or training that results in an understanding of domestic violence by all probation agents on staff.
14. Participate in inter-agency monitoring of the probation response.



# References

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## Training Memos, Appendices and Resources

Available online from Praxis International's *Blueprint Materials* ([http://www.praxisinternational.org/blueprint\\_materials.aspx](http://www.praxisinternational.org/blueprint_materials.aspx)):

- *1A Practitioner's Guide to Risk and Danger in Domestic Violence Cases*
- *1B Training Memo—Risk and Dangerousness*
- *1C Training Memo—Intervention with Victims of Battering as Suspects or Defendants*
- *1E History of Domestic Violence Summary (HDVS)*
- *1F Justice Involved Military Personnel and Veterans*
- *5E Guide to Bail Setting, Conditional Release and Enforcement*
- *5G Framework for Recommending Time to Serve and Length of Probation*
- *7A Rehabilitation Program Considerations in Domestic Violence Cases*
- *7B Training Memo - Conditions of Probation*
- *7C Training Memo - Supervised Release in Domestic Violence Cases*
- *7D Firearms Prohibitions*
- *7E Monitoring Conditions of Probation in Domestic Violence Cases*
- *7F Domestic Violence Resources (local probation admin should make a list of approved services and programming available for probationers)*
- *7G Training Memo - Probation Violation Law*
- *7H Training Memo—Legal Considerations in Probation Violations Based on a New Offense*
- *7I Training Memo—Probation Transfer in Domestic Violence Cases*

Available from Arrowhead Regional Corrections:

- APPA's Community Corrections Response to Domestic Violence: Guidelines for Practice
- Notification Letters

## Applicable Statutes

- Minn. Stat. § 629.72, Minn. Stat. § 629.725, Minn. Stat. § 629.715, Minn. Stat § 518B.01.