

Appendix 8C

Weekend Post-Arrest Procedures¹

Procedures for Domestic Abuse, Violation of an Order for Protection, Violation of Domestic Abuse No-Contact Order and Harassment Cases

(Source: Second Judicial District *Domestic Abuse Guidelines and Procedures Manual*, Revised September 3, 2003)

Per Ramsey County bench policy (see Appendix 1), the designated weekend duty judge shall be responsible for reviewing the status of all persons being held for domestic abuse, violation of an order for protection, violation of a domestic abuse no contact order or harassment at the 4:00 p.m. Saturday meeting with the Duty Officer (Station Commander). (The misdemeanor domestic abuse-related cases will therefore be excluded from the telephone conference held with the Remand Screener on Saturday morning.)

1. Prior to the 4:00 p.m. meeting, the following should occur:
 - a. Any agency wishing to continue detention of a person arrested for a domestic abuse (or any other felony and gross misdemeanor case) beyond 48 hours shall have available at the Duty Officer Unit a completed "*Judicial Determination of Probable Cause to Detain*" form (Appendix 7). The facts supporting probable cause shall be written in the space provided at the top of the form. Relevant police reports should be attached.
 - b. The Remand Screener on duty shall, prior to the meeting, forward to the Duty Officer (Station Commander) a copy of the *Pretrial Bail Evaluation* form (Appendix 10) regarding the arrestee and a copy of the *Project Remand Confidential Victim Information* form (Appendix 9).
2. Based upon the above information, the judge shall then determine whether the defendant should be held for court or released; and if

¹ States other than Minnesota have statutes similar to those cited here.

released, under what conditions. Bail, a no contact order and other conditions of release may be set (see Appendix 6).

- a. If the arrestee is to be held for court after the weekend, *the Judicial Determination of Probable Cause to Detain* form needs to be completed and signed by the judge.
- b. If the judge determines that the arrestee may be released, a copy of the attached *Judicial Release Order* (Appendix 8) authorizing the release shall be completed and signed. This is in addition to the *Judicial Determination of Probable Cause to Detain* form.
- c. If the judge determines that the arrestee may be conditionally released; the judge shall sign a *Conditional Release Order* (Appendix 12).
- d. The weekend judge shall also consider whether a no contact order is appropriate and if so, complete and sign the pretrial no contact order checking the "yes" or "no" box determining whether the order is or is not a Domestic Abuse No Contact Order. If the arrest is for assault, criminal sexual conduct, terroristic threats or interference with an emergency call committed against a family or household member, check "yes." The Remand Screener will serve the order upon the arrestee.

The procedure outlined above is intended to parallel that presently being followed for felony and gross misdemeanor cases and the distribution of the paperwork shall be made accordingly. Failure to have the proper documentation available at the review in the Duty Officer Unit (Station Commander's) office will result in the arrestee being released because of the expiration of the *McLaughlin* 48 hour time limit.

COMPARISON BETWEEN THE 36-HOUR AND 48-HOUR RULES**36-HOUR RULE (Rule 4.02)**

1. Only applies to warrantless arrests where defendant is NOT released immediately.
2. Requires that defendant be brought before a judge within 36 hours of arrest.
3. Only an appearance before a judge will satisfy the rule.
4. In computing time elapsed, date of arrest, Sundays and legal holidays are NOT counted (time begins to toll at midnight and therefore always expires at noon).
5. Unless satisfied, defendant must be released.

48-HOUR RULE (Rule 4.02)

1. Only applies to warrantless arrests where defendant is NOT released immediately.
2. Requires that a probable cause determination be made by a judge within 48 hours of arrest.
3. Can be satisfied by: (a) complaint signed by a judge; or (b) judge signing a "judicial determination of probable cause to detain" form filled out by police (usually a homicide detective).
4. Time starts to toll upon arrest without interruption.
5. Unless satisfied, defendant must be released.

General Comments

1. Which rule expires first depends on the day and time of the arrest. Therefore, each rule must be evaluated independent of the other.
2. In Ramsey County, all cases involving persons whose 48 hours will expire before Monday court are reviewed by a judge in the St. Paul Police watch Commander's office on Saturday at approximately 4 p.m. Therefore, a probable cause summary written by the arresting officer must be in the Watch Commander's office by then.
3. The Ramsey County District Court has a bench policy (see Appendix 1) which specifically requires judicial review of **weekend domestic abuse-related offenses and harassment** to be reviewed. Police reports for all weekend warrantless domestic abuse, violation of an OFP, violation of a domestic abuse NCO and harassment arrests must also be in the Watch Commander's office by 4 p.m. on Saturdays.

4. When Monday is a legal holiday, another judicial review also takes place on Sunday at 4 p.m.
5. If the original arrest was made on a felony or GM and the charge is subsequently reduced, there is **no** change in computing the time. Both are still figured from the time of arrest.

CHART OUTLINING THE EXPIRATION OF 36 AND 48 HOUR RULE**(Assumes NO legal holidays)**

ARREST TIME	48-HOUR RULE EXPIRES AT:	36-HOUR RULE EXPIRES AT:
Monday 1:00 a.m.	Wednesday 1:00 a.m.	Wednesday Noon
Monday Noon	Wednesday Noon	Wednesday Noon
Monday 4:00 p.m.	Wednesday 4:00 p.m.	Wednesday Noon
Monday 11:00 p.m.	Wednesday 11:00 p.m.	Wednesday Noon
Tuesday 1:00 a.m.	Thursday 1 00 a.m.	Thursday Noon
Tuesday Noon	Thursday Noon	Thursday Noon
Tuesday 4:00 p.m.	Thursday 4:00 p.m.	Thursday Noon
Tuesday 11:00 p.m.	Thursday 11:00 p.m.	Thursday Noon
Wednesday 1:00 a.m.	Friday 1:00 a.m.	Friday Noon
Wednesday Noon	Friday Noon	Friday Noon
Wednesday 4:00 p.m.	Friday 4:00 p.m.	Friday Noon
Wednesday 11:00 p.m.	Friday 11:00 p.m.	Friday Noon
Thursday 1:00 a.m.	Saturday 1:00 a.m.	Saturday Noon
Thursday Noon	Saturday Noon	Saturday Noon
Thursday 4:00 p.m.	Saturday 4:00 p.m.	Saturday Noon
Thursday 11:00 p.m.	Saturday 11:00 p.m.	Saturday Noon
Friday 1:00 a.m.	Sunday 1:00 a.m.	Monday Noon
Friday Noon	Sunday Noon	Monday Noon

Friday	4:00 p.m.	Sunday	4:00 p.m.	Monday	Noon
Friday	11:00 p.m.	Sunday	11:00 p.m.	Monday	Noon
Saturday	1:00 a.m.	Monday	1:00 a.m.	Tuesday	Noon
Saturday	Noon	Monday	Noon	Tuesday	Noon
Saturday	4:00 p.m.	Monday	4:00 p.m.	Tuesday	Noon
Saturday	11:00 p.m.	Monday	11:00 p.m.	Tuesday	Noon
Sunday	1:00 a.m.	Tuesday	1:00 a.m.	Tuesday	Noon
Sunday	Noon	Tuesday	Noon	Tuesday	Noon
Sunday	4:00 p.m.	Tuesday	4:00 p.m.	Tuesday	Noon
Sunday	11:00 p.m.	Tuesday	11:00 p.m.	Tuesday	Noon