

Court First Appearance

After a person is charged with domestic assault, their next stop is a first court appearance. This is the defendant's first time in front of a judge, who will make decisions that will set the case and the defendant on one of several paths.

The purpose of a first appearance is to explain to a person his or her constitutional rights, ensure that they received a copy of the complaint and they understand the charges against them, determine what they're going to do about an attorney, and determine conditions of release. A Domestic Abuse No Contact Order (DANCO) may be issued at this hearing. If a DANCO is issued by the court it would remain in effect while the case is pending unless and until it is modified or cancelled by a judge. If a defendant violates the DANCO it is a crime and he or she can be arrested and charged with a misdemeanor, gross misdemeanor or felony depending on the defendant's criminal record. It can also be a violation of conditions of release from jail.

Judges are very concerned about your safety. Judges are also very concerned about whether you want a DANCO or not. There are many reasons why a victim may or may not want a DANCO. A victim is in the best position to evaluate the danger they face, and they are most aware of other factors like child care and financial issues, that can affect a decision about a no contact order. However, the judge makes the final decision about whether or not to issue the DANCO.

A DANCO can be modified or cancelled. If you want a DANCO modified or cancelled, you should contact a victim witness advocate or the prosecutor, and come to court to tell the judge. The judge has the final say in whether a DANCO should be changed or cancelled, but the judge will listen to the your reasons and take that into consideration in making its decision.

Before the first appearance the judge receives a copy of the lethality assessment tool that was done by law enforcement. The judge considers the information from the lethality assessment tool when making decisions in the case.

At the first appearance one or more of the following things will happen: 1 – the judge will set an amount of bail which must be paid before release; 2 – a judge will set conditions of release which must be followed to remain out of jail; or 3 – the judge may order the participation in the IDAPP program. A judge can order a defendant in the IDAPP program if the lethality assessment tool indicates the victim is at high-risk. Typically, if IDAPP is ordered a DANCO is also issued.

If the judge sets bail it will set both conditional and unconditional bail. Conditional bail often means the defendant will pay a lower bail amount, but must agree to abide by conditions or rules issued by the court. Those could include no drinking, remain law abiding, stay employed, etc. An unconditional bail typically is set at a higher amount and the court will not impose any special conditions.

However, if DANCO is issued by the court, the defendant must comply with that whether they choose conditional or unconditional bail.

The final step at the first appearance is to set future hearing dates. Domestic abuse cases are set in an expedited fashion. Generally, these cases get a pretrial date and a trial date at the first appearance. The pretrial and trial will be set within 60 days for a misdemeanor. For gross misdemeanors and felonies, court dates are generally set within 90 days.

If a defendant elects to participate in the IDAAP program, program staff will send reports to the court about how the person is doing while the case is pending.