

Maricopa County Attorney's Office
Prosecution Policies and Procedures

CHAPTER PLEA AGREEMENTS	EFFECTIVE DATE 08/13/2020	PROCEDURE # 7.5
SECTION DOMESTIC VIOLENCE AND CHILD ABUSE OFFENSES		
DISTRIBUTION TRIAL ATTORNEYS	REVISION DATE	REVISION #

This policy provides guidance regarding plea agreements for cases involving domestic violence offenses as defined in A.R.S. § 13-3601 and/or child abuse charges regardless of which bureau is handling the case. Prosecutors handling misdemeanor domestic violence cases are encouraged to contact the appropriate family violence bureau for consultation.

A. PLEA AGREEMENT REQUIREMENTS FOR DOMESTICE VIOLENCE OFFENSES

1. **Stipulating to treatment programs.** When stipulating to probation in a plea agreement in a domestic violence case, DCAs must require, absent extenuating circumstances, that the defendant participate in a domestic violence treatment program.
2. **Domestic violence designation.** When resolving a domestic violence case with a plea agreement, the offense should be specifically designated as a domestic violence offense by noting that the crime is “a domestic violence offense” following the name of the crime. All plea agreements in domestic violence cases must include A.R.S. §§ 13-3601, 12-116.05, 12-116.06, in addition to other applicable statutory citations.
3. **Costs in strangulation cases.** In strangulation cases, the plea also should include a stipulation that the defendant reimburse the MCAO for the cost of the forensic nurse examination.

B. RESOLVING CASES INVOLVING RECANTING VICTIMS

As with any case, the victim's views on case resolution will be considered, but a case will not be dismissed solely because a victim requests it or recants. When determining how to best resolve a case involving a recanting or uncooperative victim, the DCA should consider the following:

1. The overall facts of the case including the nature of any injuries to the victim;
2. The views of the victim;
3. The reasonable likelihood of conviction based on the available evidence;
4. Any prior domestic violence history between the defendant and victim;
5. The defendant's overall criminal history;
6. The need to protect the victim and others; and
7. The goal of stopping the cycle of violence.

C. CHILD ABUSE CASES WITH 35-YEAR STATUTORY MAXIMUMS

In cases where the legislature has imposed a mandatory minimum sentence of 35 years or more, the presumptive offer is a plea stipulating to no less than 20 years.

D. DCAC CASES

In child abuse cases that are dangerous crimes against children, the presumptive offer is a plea stipulating to no less than 10 years if the crime

1. involves serious physical injury; or
2. is attempted murder or kidnapping associated with abduction or attempted abduction; or
3. is aggravated assault involving a deadly weapon or dangerous instrument and the child sustained a significant injury or a firearm was discharged. A significant injury is a physical injury that is more substantial than a minor cuts, scratches, or bruises.

E. FACTORS TO CONSIDER

The DCA should consider all the facts and circumstances, including the following factors when determining an appropriate offer in child abuse cases and when considering whether a deviation is appropriate in cases under C and D above.

1. Victim input;
2. The degree and location of injury to the victim;
3. The duration and nature of the abuse;
4. The defendant's criminal history and/or DCS history;
5. Critical witness availability, including the victim's ability to testify;
6. The ages of victim and the defendant;
7. The number of victims and offenses, including uncharged offenses;
8. Previous probation supervision and/or treatment/counseling opportunities;
9. Psychological and/or emotional trauma suffered by the victim;
10. Case agent input;
11. Any other relevant factor.