

PROPOSAL FAMILY VIOLENCE COURT

Mission Statement

Through a collaborative process with the community and the Superior Court to increase awareness and understanding of the causes and consequences of family violence, the Marin County Family Violence Court (FVC) seeks to compel defendants' compliance with court ordered family violence sentences and improve the conduct of families that desire to stay together by supporting that outcome with court-monitored structure and program assistance for all members of the family.

Goals of the Family Violence Court are:

- To end the cycle of violence within a family;
- To protect the children within the family from victimization;
- To effectuate communication and coordination between organizations, agencies, departments and the Court that address family violence issues;
- To promote effective prevention, intervention, assessment, and treatment strategies, plans and resources;
- Upon successful enrollment and sustained participation in court-ordered batterers' program, to make referrals to family therapy and other treatment modalities for defendants and families who desire to remain together after episodes of family violence.

General Overview

Mandatory Post-Plea Program

The Marin County Family Violence Court (FVC) is a court-ordered, post-plea program for those individuals convicted of a qualifying family violence offense. The program will be structured in phases; most will be mandatory but a voluntary family therapy phase will be available to defendants and their families. Funding for the voluntary phase has yet to be determined but may consist of funds from First Five allocations, sliding scale family therapy programs and treatment alternatives available through Marin Health and Human Services and Probation Departments. Initially, participation in this program will focus on ensuring that defendants comply with terms and conditions of their sentences, including mandatory participation in batterers' programs; payment of fines, fees and restitution; AOWP; and other terms and conditions ordered by the Court.

Stakeholder Agencies

Marin County Superior Court
Marin County Board of Supervisors
District Attorney
Family Violence Unit
Victim/Witness Program

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Public Defender/ADI/Private Counsel for Defendant
Probation Department
Health & Human Services Department
Children and Family Services
Drug & Alcohol Program
Community Based Organizations/Treatment Providers
Law Enforcement Agencies

Activities to be Completed Prior to Enrollment in Family Violence Court

Step One: Family Violence Court Eligibility

Cases Eligible for Family Violence Court

Determination of eligibility will be the responsibility of the Superior Court. All misdemeanor family violence offenses are eligible for referral to the FVC. At the time of filing of criminal charges the District Attorney shall specify whether a case meets the basic criteria to be a family violence case. Family violence cases shall include, but not be limited to misdemeanor domestic violence offenses as defined in Penal Code section 13700 and Family Code section 6211; misdemeanor offenses under Penal Code section 273a(b); and misdemeanor offenses under Penal Code section 368(c). The District Attorney may identify probation violations in misdemeanor family violence cases as eligible cases for the FVC. Defendants who plead guilty to one or more of the eligible offenses or admit the probation violation in a qualifying family violence case will be referred to the FVC.

Cases Not Eligible for Family Violence Court

The following case characteristics and charges will make defendants ineligible for FVC.

- Any case in which one of the counts requires a conviction of a felony offense;
- Any case in which the defendant is not a Marin County resident;
- Any case in which one of the counts requires a conviction of an offense requiring registration under 290 of the Penal Code;
- Any case where the defendant falls under the provisions of Penal Code sections 4011.6, 1368 or 1026;
- Any case in which one of the counts requires a conviction of violations of Penal Code section 192;
- Any case in which one of the counts requires a conviction under the provisions of the Street Terrorism Enforcement and Prevention Act (Penal Code sections 186.20 – 186.33);

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- Any case in which one of the counts requires a conviction under the provisions of Penal Code sections 422.55 – 422.93.

Step Two: Plea Entry

Upon determination that the defendant is eligible to enter the FVC the Public Defender/defense counsel will explain the regimen of the FVC to the defendant. The defendant will enter a plea of guilty to the negotiated charge that will include a proposed negotiated disposition and a referral to Family Violence Court. Following the plea, if the defendant is in custody, the Probation Department may be ordered to prepare a report prior to the next FVC calendar date; if out of custody, he/she will be ordered to report to the next FVC calendar date. Sentencing will occur in the FVC.

Step Three: Probation Referral & Assessment

Once the defendant has pled guilty, he/she is referred to the Probation Department for a pre-sentence report and recommendation to help guide the Court in sentencing decisions. The pre-sentence report will contain the client's criminal background, social history, substance abuse history (if any), family structure and involvement with social services, and an analysis with recommendations to assist in the client's success while enrolled in FVC. As part of a pre-sentence report, each client will be assessed using a validated risk/needs assessment tool. The LS/CMI is a third generational assessment tool that has been tested extensively and validated. This assessment will indicate the client's risk in the community. It also assists the probation officer in developing a case plan based on the needs of the client. As part of the pre-sentence report, the Probation Department will also conduct a lethality assessment. The SARA (Spousal Assault Risk Assessment) is a validated risk assessment tool that has been tested extensively to help assist the probation officer in determining the client's potential for future violence. Other assessment for drug and alcohol issues and child welfare services will be ordered by the Court after defendant has begun participation in programs required by law in family violence cases.

Family Violence Court Process

Those defendants who have been determined to be low risk and low lethality in the pre-sentence report, the Judicial Officer may order them to comply with all terms and conditions of probation but may not require them to attend FVC. Defendants will be advised that weapons screening will be a standard condition of probation. The Judicial Officer will advise these defendants that any failure to comply with court orders may result in their required attendance at FVC in the future. A defendant who scores in the medium or high range on the risk and lethality assessments will be recommended by Probation into FVC and required to participate by the Judicial

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Officer. Each defendant will be required to attend a court session each week for the first month. Then the defendant can be required to return to court on a less frequent basis on a diminishing schedule, e.g. every two weeks, three weeks, then monthly, as determined by the team.

Initially, the Family Violence Court will be launched as a pilot program for six months and the number of participants will be capped at 25. Court will be held on Wednesdays at 2:15 p.m. in Department H. The tentative launch date will be February 6, 2008. The FVC team meetings will be held directly before court at 1:30 p.m. in Judge Adams' jury deliberation room. Initial estimates from the Probation Department reflect that approximately 8-10 new misdemeanants per month are added to the supervision caseload. Presumably, between 5 and 10 new cases will be added to FVC each month. The FVC stakeholders will meet after three months to evaluate how well the court is working and the next steps in implementation.

The team process is a collaborative approach to monitoring of court ordered compliance and rehabilitation of participants, rather than the traditional adversarial approach. Under this approach, the FVC Team will meet before each court session and discuss each defendant's progress and compliance with treatment and probation. The FVC Team then determines the appropriate continued course of action for each defendant and the action to be taken at that day's court session.

In court, each case is called individually. The Judicial Officer discusses with the defendant his or her compliance. The defendant is required to disclose the state of affairs at home, attendance at treatment programs, any police contacts, drug or alcohol use and compliance with probation conditions. If the defendant is in compliance, the Judicial Officer acknowledges the defendant for his or her good work. In addition to verbal recognition from the Judicial Officer and the team, defendants who have been continually in compliance may receive awards or gift certificates of nominal value (pizza parlor, video store, etc.) If the defendant is in full compliance with all conditions of probation, the defendant's supervised probation might be converted to a conditional sentence. If the defendant is not in compliance, the Judicial Officer shall impose an immediate sanction and/or order corrective action. For example, sanctions may include additional community service; jail, if the defendant stipulates to a probation violation; or expulsion from FVC and referral to Department M, if an evidentiary hearing is requested. Corrective actions may include additional attendance at treatment sessions or referral for drug/alcohol or social services assessment and intervention (see Appendix A, Other Potential Court Ordered Assessments), drug/alcohol meeting attendance or other appropriate remedial options. After enrollment in the FVC, if the defendant is subsequently charged with a felony or a petition to revoke probation is filed pertaining to a felony, FVC participation will be suspended until the other matter is resolved in the VFP department. In the event that a petition to revoke probation is filed pertaining to any of the terms and conditions of the domestic violence case, the FVC judicial officer will preside over that petition, if the judicial officer's schedule permits; otherwise the hearing will be assigned to a VFP department.

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Mandatory Phases

When a defendant is granted probation and the Court orders the probation officer to provide supervision of the defendant in the community, the following services, designed to compel defendants' court ordered compliance, are provided.

1. For domestic violence, all mandated conditions of probation are included, as required by Penal Code section 1203.097. The Penal Code requires a defendant to complete a mandatory 52 week certified batterer's treatment program. The Probation Department is responsible for certifying these programs (there are currently five certified programs in Marin County – Probation Department will provide list). The probation officer will refer the defendant to one of these programs and monitor his/her performance by progress reports from the program. The probation officer will also contact the victim, insure completion of community service hours and collect money for the Domestic Violence fund per Penal Code section 1203.097.
2. For elder abuse pursuant to Penal Code section 368, treatment services may include any counseling deemed necessary for the defendant. The probation officer shall assist the defendant in finding an appropriate therapist or treatment program. . The probation officer shall then monitor the defendant's participation to ensure that this probation condition is being fulfilled.
3. For child abuse pursuant to Penal Code section 273a probation conditions include a four-year supervision term as well as a one year child abuser's treatment/counseling program. The probation officer shall refer the client to this program (currently there is only one such program in Marin County – Probation Department to provide program information.)
4. Other common conditions of probation for family violence-related crimes include:
 - Chemical testing;
 - Enforcement of a search and seizure condition;
 - Monitoring of any counseling and/or NA/AA meeting requirement;
 - Reporting any violations of a criminal protective order.

Voluntary Phase – Individual and Family Therapy Programs

An HHS representative is responsible for conducting thorough assessments of defendants and families that elect to enter the voluntary phase of FVC (see Appendix A, Potential Court Ordered Assessments). HHS shall also develop a case plan with the family and assist the family in locating and accessing services. In some situations, the Court may order the HHS to provide specific services to assist in reunification. In addition, HHS will collaborate with Probation, Law Enforcement

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and CalWORKS to assist defendants and their families in meeting any probation conditions or CalWORKS eligibility requirements. HHS may have the ability to fund or defray the cost of certain services in the event the family is unable to pay for them. Services provided *may* include:

- Substance Abuse Assessment and referral for treatment
- Individual/Family Counseling
- Group Therapy
- Sexual Abuse Treatment/Therapy
- Drug Testing
- Parenting Classes or individual parent monitoring
- Anger Management Classes
- Visit Supervision
- Transportation Assistance – bus tickets/limited mileage assistance
- Day Care/Respite Care

Family Violence Court Program Design

Team Composition and Responsibilities

The following departments/agencies will provide representatives to participate on the FVC Team:

Core Team Members

- Judicial Officer
- District Attorney
- District Attorney Victim Assistance Unit
- Public Defender/ADI/Private
- Probation

Other Team Members (voluntary phases only)

- Family and Children's Services
- Alcohol and Drug Services
- Domestic Violence Agency
- Client Based Organization for family therapy services

Team Member Roles and Responsibilities

Core Team Members

Judicial Officer

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The Judicial Officer is the primary spokesperson for the FVC. The Judicial Officer is the final arbitrator of any disagreement among the Team. The Judicial Officer also interacts directly with each defendant to establish rapport and ensure compliance with court orders. The Judicial Officer provides affirmation and acknowledgement of progress, compels accountability from defendants and, if required, issues sanctions.

District Attorney

The District Attorney determines, using the eligibility criteria above, whether defendants will be eligible for FVC, in the event they plead guilty. The District Attorney represents the People's interests at all FVC proceedings.

District Attorney Victim Assistance Representative

The District Attorney Victim Assistance member provides input from victims regarding conduct and progress of defendants in the home or in their interactions with victims.

Public Defender/ADI/Defense Attorney

The Public Defender/private defense counsel explains the FVC process to defendants before they plead. Defense counsel represents the interests of the defendants in all FVC proceedings.

Probation Department

Prior to enrollment in FVC, Probation Department provides pre-sentencing report, including risk and lethality assessments. The Probation Department may also coordinate weapons screening for these defendants, particularly those who will be returning to the victims' homes. The assigned probation officer will act as a "case manager", monitoring court compliance with sentence terms and conditions. If participation in drug or alcohol meetings is required by FVC, Probation Department will conduct periodic testing of defendants at the direction of the Team. Probation Department will also conduct weapons screening for any defendant who will be cohabiting with the victim(s). For voluntary phases, Probation Department, in consultation with Health and Human Services, will certify treatment providers and programs for use by the FVC.

Other Team Members (voluntary phases only)

Health and Human Services (HHS)

In conjunction with the Probation Department, provides screening and assessment services for defendants who elect to participate in therapeutic

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services to reunify families and create healthy communication and for drug and alcohol dependence. After screening and assessment, if HHS determines that the defendant is suitable for treatment and such treatment is available and affordable, HHS representative will act as “case manager” for defendants opting to participate in these services and will work with the Team to determine the appropriate treatment program for the defendant and the defendant’s family. HHS will develop case plans for these participants. HHS will have a representative from Children and Family Services and Alcohol and Drug Treatment on the Team.

Client Based Organizations for Family Therapy Services

Client Based Organizations will provide family therapy programs for defendants who elect to participate in these services and for whom HHS has determined would benefit from these interventions.

Core Team Meetings

The Core Team shall meet weekly, prior to the FVC calendar, to provide the Court with the status of every defendant appearing on the calendar.

Family Violence Court Phases

Phase One:

These defendants will have just entered guilty pleas. They will be referred for sentencing to the FVC. Under the conditions of FVC probation the defendants have agreed to comply with the treatment regimen ordered by the judicial officer. For low risk and low lethality defendants, their cases will be “banked” and they will be allowed to fulfill the terms and conditions of probation without active participation in the FVC, unless they fail to comply with any elements of their sentences. All other defendants must attend FVC weekly. Phase One will last at least two (2) months, and may be extended indefinitely at the discretion of the judicial officer, based on recommendations from the Team.

Phase Two:

These defendants have demonstrated compliance with treatment and court mandates. These defendants must report bi-monthly to the FVC. Defendants will advance to Phase Three when the judicial officer determines that they are ready for less frequent monitoring.

Phase Three:

These defendants have had no reported incidents at home, have had no criminal contacts with law enforcement, and are complying with all court orders. At the

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judicial officer's discretion, these defendants will report to FVC on a schedule to be determined by the judicial officer and the Team. For some defendants, this will be the final phase of FVC and they will remain in this phase until they have completed all court ordered conditions of probation (the remaining time to achieve at least 52 weeks in FVC to enable them to complete batterers' program.)

At this juncture, defendants may begin to explore voluntary participation in family therapy programs or other therapeutic services to enable them to reunify with their families or continue to work on their own goals of behavior modification for more fulfilling and sustainable interpersonal relationships. If defendants elect to participate in such programs, they will be referred to HHS for assessment and assistance in finding appropriate services. If these defendants voluntarily opt into Phase Four, the Team will provide case management and support for their continued participation in therapeutic services.

Phase Four (Voluntary Phase):

After HHS completes assessment and referral to therapeutic services, these defendants will begin their participation in a highly individualized program. The Team will monitor their participation and will address peripheral concerns (housing, CalWORKS, parenting classes, anger management, etc.) to provide the greatest opportunity to these defendants to successfully overcome the underlying pressures that sometimes lead to family violence. Defendants will continue to be required to report to the FVC on a regular basis but still must report to a Probation Officer and/or Social Worker who will continue to monitor treatment compliance.

PLEASE NOTE: THIS VOLUNTARY PHASE IN NO WAY REPLACES OR ABROGATES THE REQUIREMENT THAT DEFENDANTS COMPLETE ALL MANDATORY COMPLIANCE WORK IN FVC.

Regression

If defendants regress in court ordered compliance they can be ordered back to an earlier phase.

Positive Reinforcement/Incentive for Successful Completion of all FVC Requirements

For defendants who have completed all required mandatory phases of FVC, the Judicial Officer may convert supervised probation to conditional sentence for the remaining term of probation. Given the statutory requirements pertaining to domestic violence sentencing, this probation modification is the most that the FVC can offer to recognize defendants for their compliance. It is expected that this will be viewed by defendants as a real benefit. This will also relieve the Probation Department of supervising defendants who have demonstrated the ability to lead law abiding lives.

Graduation

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Graduation occurs when a defendant has successfully completed conditions of his FVC sentence and is no longer a subject of law enforcement contacts.

Family Violence Court - A First Step Toward Unified Family Court

Once FVC is launched and the Team has finalized the operational model, the stakeholders may commence discussions of the creation of a Unified Family Court. The model contemplates assigning all cases related to one family to the same judicial department (criminal, family law, juvenile dependency, juvenile delinquency, probate, etc.) This departure from the traditional manner in which cases are assigned in the court has many workload implications that would require rigorous analysis and consensus from the Bench and other stakeholders.

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Appendix A - Other Potential Court Ordered Assessments

HHS may perform assessments on defendants entering the voluntary phase of FVC. The ability of HHS to conduct assessments and provide case management and other social services to these defendants is contingent on whether HHS identifies funds that are appropriate and available for these purposes. In the event defendants and their families have the ability to pay all or part of the cost of assessment, case management and treatment, HHS and the Team will explore the best way to procure and deliver these services to these individuals. Much more discussion is needed about how to fund the voluntary phase of FVC before it can be effectively incorporated into the FVC model.

Drug and Alcohol Referral & Assessment

The Division of Alcohol, Drug & Tobacco Programs provides alcohol and other drug treatment services through contract with a wide variety of community-based provider agencies. For the purposes of the FVC, the Division would conduct assessment using the Addiction Severity Index (ASI). This is a widely used standardized assessment that measures an individual's functioning in seven domains of their life (i.e., substance abuse, mental health, criminal justice, psycho-social, etc.) The Division may also perform a variety of other assessments such as various mental health screening/assessment instruments (i.e., MMPI, Mental Health Status Examination, Becks, Burnes, Symptom Severity Checklist, CAPE, etc.) Children may be assessed using the SAT (Symtatic Apperception Test). The Division would determine how to perform assessment and case management services for drug and alcohol defendants and family members to ensure appropriate placement, attendance and progress is being made during treatment.

Child Welfare Referral & Assessment

Family and Children's Services provides assistance to families and children on many levels. Marin County has contracted with the Children's Research Center to implement Structured Decision Making (SDM) tools in this county. These assessment tools have been in place since 2005. SDM is a case management approach that provides structured assessment tools at key decision points throughout the life of a case. It has demonstrated ability to reduce recurrence of child maltreatment, and is consistent with expectations of Federal Reviews, Child Welfare Redesign, and the statewide approach to family safety. The components of this model include:

- **Response Priority:** assists to determine which referrals require immediate response
- **Safety Assessment:** assures that staff consider potential threats to child safety and guides the process of considering whether in-home interventions could mitigate safety threats or whether a child must be removed.
- **Risk Assessment:** research based assessment estimates the likelihood of future maltreatment.

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- Family Strengths and Needs Assessment: assists to focus case plans on the most critical need areas while building on a family's strengths.
- Reassessment: cases are reviewed at least every six months with a re-examination of risk. This tool examines risk, visitation, and safety to guide decisions about reunifying, continuing reunification services, or changing the goal.