



Screening Considerations for Family Justice Centers

Every community must decide the appropriate screening process to use at the FJC based on their state's laws, available resources and protocols developed by their on-site partners.

Why?

Maintain the FJC a Victim centered facility
Promote Victim safety and Staff safety at your FJC
Promote confidentiality of records
Protect victim confidentiality
Liability issues

How to Screen?

Currently every discipline uses a screening process of some form to provide services to their clients, serve the public, and/or promote safety at the workplace. Family Justice Centers are victim centered facilities. The screening process used at any FJC will depend on the governance structure of the FJC, the information available to that agency, policies adopted by respective leadership teams and/or applicable laws for that state.

In some jurisdictions, information about arrests, custody status, restraining orders and/or court proceedings are available on the internet. Most of this information is public information and accessible to the public. .

- Shelters – use intake form to determine the client is a victim; maintain the shelter as a victim centered facility; promote victim safety & confidentiality and compliance with grant requirements.
- Legal Clinic – use intake form and computer check to verify agency has not provided legal services to opposing party; conflict of interest to provide legal services to both the victim and the defendant;
- Police agencies – must follow state and federal laws to protect the rights of the victims and defendants. They also have information that is public.
- Prosecutors – also must follow state and federal laws to protect the rights of the victims and defendants; avoid a conflict of interest, follow ethical duties related to discovery, placing themselves as witnesses by talking to the victim/defendant, etc.
- Defense Attorneys – use intake form, internal computer check and information provided by prosecutors to determine if there is a conflict of

- interest in representing the defendant; avoid attorney/client privilege; assess the credibility of witnesses in preparation for trial; etc
- Courts – legal requirements to review records in DV cases for prior cases, temporary restraining orders, outstanding warrants issued by the court.
- General public - has access to information on the website or for a fee.

What's unique about a FJC?

Multi-disciplinary teams of professionals with different legal and ethical requirements.

Multi-disciplinary team of professional with access to different and helpful information.

Only police, prosecutors and courts have access to criminal records, restraining orders, arrests, field contacts, police reports, essentially information that will likely assist FJCs accurately determine the status of a potential client (victim or perpetrator).

Victims and defendants will go to FJCs.

- Together – to drop charges.
- Together – defendant pressuring the victim to drop charges
- Separately – victim seeking services
- Separately – defendant seeking to confuse the system and keep the victim from obtaining services.

Lead agencies will need to adopt a screening process to minimize risk of liability or the risk of defendants being on site and manipulating the system; ensure state and federal laws are followed; maintain high level of security of records and safety of staff and victims at the FJC.

There will be situations where it is not clear who the victim is in a particular case. Issues related to dual arrest and/or the identification of the primary aggressor will arise. Under such circumstances, it is appropriate and necessary for police/prosecutors to use internal computers to screen clients.

In some circumstances, it would be a conflict for police/prosecutors to contact an individual.

- Individual arrested for domestic violence & 4th Waiver invoked
- Individual charged with a crime of domestic violence (pending case)

However, that does not mean other professionals should not interact them. The question is where & how? While a defendant may be declined services at and inside a FJC, other agencies who believe the individual is also a victim may choose to provide services off-site at an agency's main office, a neutral location or even coffee shop.

Consider what services is the individual seeking?

- Counseling?

- Legal Services?
- Housing?
- Status of the Case?

If the main agency overseeing a FJC is non-government such as a nonprofit agency, then using existing screening tools would be appropriate. However, once the case is submitted for police or prosecutor's involvement, they will need to conduct their own screening of the case.

- Helps determine the victim
- Identification of the primary aggressor
- Comply with discovery rules re credibility of witnesses, use of priors against the defendant
- Case evaluation

Case Scenario:

Husband and wife walk in at the same time. Both fill out your intake form and allege they are each victims. What are you going to do?

How should a screening be conducted?

- Most intake forms usually inquire about the reason for visit and history of DV
- You can also provide a simple disclosure on the intake form such as "Our center is a victim centered facility. For your safety and safety of our staff, we conduct a screening of every person seeking services at our Center to make that evaluation and to avoid any conflict of interests."
- Discreetly.

What to do with the information you find out?

- Depends
- Are you a government agency?
- Are you a non-profit?
- Who's conducting the intake? Are they part of the law enforcement chain?
- What services is the victim requesting?
 - If it's social services such as bus tokens, neither the police nor prosecutor would be involved.
 - If it's the forensic medical unit and your state is a mandated reporter, then the victim should be advised in advance of your mandating reporting as that information will be provided to the police and prosecutor.

What are factors a FJC should consider in evaluating whether a conflict exists for providing services, especially with law enforcement partners on site?

- Outstanding Felony Warrants (violent and non-violent).
- Outstanding Misdemeanor Warrants (violent offenses only)
- Open and pending criminal DV case – yes
- Open/Pending Criminal Conviction for DV – yes
- Prior civil restraining orders
- Open/pending restraining orders
- Closed cases – case not issued, case exceeds probationary period.

What should a FJC do with this information?

- Automatically decline services or use that information as a trigger and conduct further evaluation?
- What additional information should be considered in your assessment?
- What questions do you want to ask of the client to shed more light on the circumstances?
- Declare a conflict of interest on behalf of the FJC (all partners or just specific partners).
- Decline services at the FJC & request person to leave.
- Provide services and notice of outstanding warrant
- Make a referral to another location
- Notify police
- Shout it out to the world or discreetly notify the client
- Develop policies on how to give the best no in town (referral to another agency, with directions)
- Identify a safe zone where services can be provided by on-site partners not necessarily police/prosecutors

Who should conduct this evaluation?

- Police? Advocates? Administrators?
- Experienced professionals with specialized training working with victims, assessing credibility, and knowledgeable about the identification of the primary aggressor and knowledgeable about civil and criminal laws.
- Professionals approved by the on-site partners to maintain consistency
- Utilize protocols established by the on-site partners

Why is this important?

- You do not want to decline services to victims
- Victims can be defendants too
- Victims can be improperly arrested or subject to a restraining order

- Dual arrests or dual restraining orders exist
- Wrong or old information may exist in court records or computer system

It also may be helpful for FJC professionals to find out that the victim/defendant was accused of a crime. If the victim also had injuries, this would be vital information for the police & prosecutors to know. It may even keep a case from being referred for prosecution and/or a complaint from being filed.

If the victim has outstanding warrants, this would be vital for the victim to know and immediately take care of if. Batterers are known to notify police about a victim's outstanding warrant and/or keep information away from the victim so that she's unaware of the circumstances.

How often does this come up?

- It will depend on the jurisdiction.
- If your jurisdiction has high dual arrests and/or poorly trained police or prosecutors, this could be a big problem.
- For other jurisdictions where dual arrests are rare, this will be low.
- In San Diego, for example, it was rare for services to be declined. Out of every 1,000 clients, the screening process would reveal an issue approximately 10 times. Reasons for declining services included: conflict of interest due to a pending criminal domestic violence case or civil case, under the influence of drugs and/or alcohol, hostile or belligerent, services sought not available and/or came to the wrong location. More often than not, it was the latter.

Sample Protocols:

SDFJC is a government based agency with on-site police & prosecutor units. As such, they utilize the following screening process

The **** is a non-profit based FJC with only one detective and one prosecutor on site. As such, they utilize the following screening process....