

DUALLY INVOLVED YOUTH PROTOCOL

SANTA CLARA COUNTY

Welfare and Institutions Code section 241.1

BACKGROUND & OVERVIEW

Welfare and Institutions Code section 241.1(a) provides that whenever a youth appears to come within the description of both section 300 and sections 601 or 602, the county probation department and the child welfare services department shall determine which status will serve the best interest of the minor and the protection of society. The recommendations of both departments shall be presented to the juvenile court and the court shall determine which status is appropriate for the minor.

Welfare and Institutions Code section 241.1(e) provides that counties may, pursuant to a jointly written protocol, allow the probation department and child welfare agency to jointly assess and produce a recommendation that a child be designated as a dual status child, thereby allowing the child to be simultaneously adjudicated a dependent and a ward of the juvenile justice court.

The statute lays out the elements that must be included in the interagency protocol including the following: a joint assessment process, a dispute resolution provision, a process for seamless transition from juvenile justice court jurisdiction to dependency jurisdiction, and a process for non-minor dependents that become subject to adult probation supervision.

In a Memorandum dated June 2013, the partners to this protocol have memorialized their commitment to enhanced coordination, integration and cooperation at the administrative and service delivery levels in an effort to improve short-term and long-term outcomes for dually-involved youth. This protocol also outlines a process for determining which agency shall provide supervision for a minor or non-minor when transition jurisdiction is ordered.

All Santa Clara County partners agree that minors who come under §241.1 are entitled to receive ameliorative services in the least restrictive setting and most appropriate system which can meet their needs and the needs of the community. Given the complex, multi-faceted and distinctive needs of dually-involved youth, effective service delivery requires enhanced coordination and integration of systems. When a minor comes under this protocol, the case will be heard by a judge who has been designated to preside over §241.1 matters and who will make the determination as to which system can best serve the minor's needs. To ensure the best decision for the minor, family and community, the Juvenile Justice Court bench officer may, with full disclosure, communicate in writing about the minor's case directly with the Juvenile Dependency Court bench officer prior to making a dual status determination. This Protocol is not intended to increase the number of dependents who become involved with the Juvenile Justice system, or to increase the number of delinquents who become involved with the Child Welfare system. To ensure the best outcomes for the children and families, Juvenile Probation Department (JPD) and Department of Family and Children's Services (DFCS) will work together

continuing to jointly train staff in each agency's policies and procedures so there is a mutual understanding of both systems. This transfer of knowledge between agencies will help establish better collaboration in the dual status process. To further this collaboration DFCS and JPD have created a joint unit to address the needs of dually involved youth together.

I. APPLICATION OF PROTOCOL

This Protocol will act as a general guideline for handling dual status cases. Agency Procedures are contained in separate documents and will set forth the procedures for each agency to follow. This Protocol is not intended to supplant the Juvenile Court's legal authority to make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor. There are three main situations when this protocol applies. The situations are as follows:

A. WHEN THE MINOR IS ALREADY A DEPENDENT OF THE COURT

If the minor is a dependent of the court under §300 and his or her actions result in the filing of a §602 petition there are four options:

1. He/she may become a dual status minor¹;
2. His/her dependency may be suspended ("On Hold") under the Lead Agency model, until the Juvenile Justice case resolves;
3. Dependency may be dismissed and he/she would become a ward of the Juvenile Justice Court; or
4. He/she may remain a §300 and be served informally by Probation.

Under any of these circumstances, the §241.1 assessment will be ordered by the Juvenile Justice Court and the Juvenile Justice Court will determine which option meets the best interest of the minor and protection of society.

B. IF THE MINOR IS A SECTION 602 WARD AND JPD IS CONSIDERING DISMISSING PROBATION AND NO DEPENDENCY JURISDICTION EXISTS (See also Transition Jurisdiction)

If the minor is a §602 ward and JPD is considering a recommendation of dismissing probation but has concerns that the minor would be at risk for abuse or neglect as defined by WIC §300 if returned home to the parent or guardian, the Juvenile Probation Officer (JPO) shall calendar a Parte Review and recommend a §241.1 assessment and report be ordered. If it is determined that there is a basis for juvenile dependency jurisdiction a WIC §300 petition can be filed and wardship can be dismissed. In those cases, the case would be dismissed in the Juvenile Justice court and DFCS would be ordered to file a petition in Juvenile Dependency Court and DFCS would be the responsible agency.

¹ Dual status designation is for minors who are served simultaneously under sections 602 and 300.

C. WHEN A MINOR IS BEFORE THE JUVENILE JUSTICE COURT AND THERE ARE ALLEGATIONS OF POSSIBLE ABUSE OR NEGLECT

If the minor is involved in Juvenile Justice Court and it appears that he/she is the victim of abuse or neglect, the Court shall order that a §241.1 report be prepared. Following the review of the §241.1 report the Juvenile Justice Court can:

1. Order the filing of a §300 petition and make the minor a dual status youth;
2. Continue the case solely in Juvenile Justice Court; or,
3. Dismiss the §602 petition and order a §300 petition be filed for the matter to proceed in Juvenile Dependency Court.

In any of the circumstances outlined in sections 1, 2, or 3 above, if the Juvenile Justice Court orders a §241.1 report, DFCS will be notified by the court clerk pursuant to established procedures. When a minor's case is deemed to be dual status and is heard in the Juvenile Justice Court, the Supervising Social Worker, along with County Counsel, the minor's court appointed Dependency attorney, the parents' Dependency attorney, the child's Court Appointed Special Advocate (CASA), and any other person the court deems to have a direct and legitimate interest in the case, may attend the hearing in the Juvenile Justice Court. When a dual status case is heard in the Juvenile Dependency Court, the Probation Officer, Minor's Juvenile Justice Attorney, the child's Court Appointed Friends and Advocate (CAFA) and other persons the court deems to have a direct and legitimate interest in the case may attend the hearing.

II. DUALLY INVOLVED YOUTH UNIT

DFCS and JPD have created a joint dually involved youth unit which consists of dedicated Juvenile Probation Officers (JPO), DFCS Social Workers (SW) and a Youth Advocate. (DIY Unit)² This unit uses a coordinated and holistic approach by which JPD and DFCS jointly provide appropriate services and intensive case management to the youth and family. The DIY Unit assesses the need for services provided to the youth and the family; recognizing the critical role that families play in identifying what services will meet their needs. This unit utilizes the Youth Advocate within the Youth and Family Teaming process to identify and discuss strengths as well as needs of the youth, and to develop appropriate and effective support and service recommendations. Together, staff develop case plans and presents these case plans to the Juvenile Justice Court and/or Juvenile Dependency Court as part of the case dispositional process. The DIY Unit also provides coordinated case supervision throughout the time the case is open in both systems.

III. ASSESSMENT

Section 241.1 referrals will be reviewed by both the DFCS and JPD Supervisors of the DIY Unit to determine if the DIY Unit will admit the case into the DIY Unit.³ Cases that are admitted into

² "DIY" stands for Dually Involved Youth.

³ The Juvenile Court cannot legally order a youth into DIY Unit.

the DIY Unit will go through a Youth and Family Team Meeting (YFTM) which will result in a joint recommendation for the §241.1 report. The YFTMs serve as an opportunity to partner with the youth and family in identifying what supports are needed in order to be able to function safely, ultimately free of system involvement. The YFTM process begins with a youth advocate building a relationship with the youth and conducting an assessment of the youth's needs and strengths. Subsequently, a group including the social worker, probation officer, the youth, family, support persons identified by the youth and relevant treatment providers will meet to discuss how to capitalize on the youth's strengths and more effectively respond to the needs. Finally, a separate meeting will take place without the youth to develop the joint agency recommendations that will go into the §241.1 report.

Cases not accepted into the DIY Unit will be assigned to a DFCS SW and JPO following established procedures. The assigned JPO and the assigned SW will complete an initial assessment prior to seven court days of the pending §241.1 hearing. If the SW and JPO initially believe the minor may be a good candidate for dual status, or there is disagreement between the SW and JPO as to which agency can best meet the needs of the minor, a Multidisciplinary Team (MDT) Meeting will be requested through the designated supervisor. The MDT shall consist of designated supervisors from DFCS and Probation and any other professionals that may be deemed necessary by DFCS and JPD. The MDT will be set as soon as possible understanding that time is of the essence. If it is determined at the MDT that the minor would be a good candidate for dual status, the MDT participants will recommend which agency should be designated as the Lead agency and the other agency designated as the assisting agency.

A. MULTIDISCIPLINARY TEAM MEETING

Pursuant to section 241.1, at the MDT the agencies must seek the least restrictive level of care to meet the needs of the minor, family and community safety and determine the most appropriate department to provide services and supervision to the minor. The MDT participants shall consider the following when determining the most appropriate recommendation:

1. The nature of the referral;
2. The age of the minor;
3. History of physical, psychological, and/or sexual abuse and any Child Welfare History;
4. Prior record of minor's parents for abuse of this child or any child;
5. Minor's prior record of out-of-control or delinquent behaviors;
6. Parental cooperation with minor's school;
7. Minor's functioning at school;
8. The nature of the minor's home environment;
9. The history of involvement of any agencies or professionals with the child and family;
10. Any services or community agencies that are available to assist the child and family;
11. Statements by any counsel representing the minor; and
12. Statement by CASA and/or CAFA.

If it is determined that the minor would best be served by a Lead Agency model, the Lead Agency process shall be followed as outlined in section B. If it is determined that the minor will best be served by suspending his or her dependency status until the Juvenile Justice case resolves, the process will be followed as outlined in section D (On Hold Dependency Jurisdiction).

B. LEAD AGENCY

1. General Overview

If the minor is designated a dual status minor, JPD and DFCS shall prepare a joint assessment and recommendation with one agency and one court being designated as the Lead Agency and Lead Court. The other agency will be designated the assisting agency. Under a Lead Agency model, each agency will have a unique role in working with the minor and the family. The Lead Agency will assume primary management over the case file.

2. Process

If no wardship is established but Juvenile Probation will be working with the youth and he or she remains a dependent of the Juvenile Court, DFCS will be the Lead Agency. If no dependency is established, but DFCS will be working with the youth and family informally, then Juvenile Probation will be the Lead Agency. In all other circumstances a joint determination must be made as to which Agency will function as the Lead Agency. The Lead Agency must be the Department affiliated with the identified Lead Court. Each agency will be responsible for preparing and filing reports with their respective court. All legal time frames shall be followed.

There shall be no duplication of services. DFCS and Probation will work cooperatively to assess and assign services to meet the needs of the child and family and agree on an appropriate case plan. When required by California Department of Social Services regulations, all visitation requirements must be complied with. The two agencies can jointly fulfill visit requirements to children, parents and caregivers based on the needs of the clients and based on which department representative would be available to visit the clients. In the alternative, both agencies may conduct monthly visits as long as it is for different purposes. On a monthly basis, the Lead agency and assisting agency shall discuss the case and exchange information regarding the minor, case contacts, completed assessments and services for entry in their respective data systems.

3. Legal Status Recommendation

Dual status designations can occur when a youth has been adjudicated a dependent and a ward of the court or when a youth has an open case in either of the juvenile courts and receives informal services, such as

differential response, informal supervision or other voluntary services, from the other agency. There are a minimum of seven possible designations:

- a. The youth remains a dependent pursuant to WIC §300 with informal supervision services pursuant to WIC §654 (POIS);
- b. The youth remains a dependent pursuant to WIC §300 with court ordered informal supervision pursuant to WIC §654.2;
- c. The youth remains a dependent pursuant to WIC §300 with “Six Months without Wardship” pursuant to WIC §725;
- d. The youth remains a dependent pursuant to WIC §300 while participating in Deferred Entry of Judgment services ordered pursuant to WIC §790;
- e. The youth obtains dual status pursuant to WIC §241.1;
- f. The youth remains a §602 and receives informal services with DFCS;
- g. The youth is neither a dependent nor a ward and the petition is dismissed.

In addition to these joint options, youth can remain or become strictly a §300 or a §602. As stated earlier, the intent of this Protocol is not to increase the number of youth involved with either system. Rather, the intention is to ultimately reduce the number of system-involved youth by providing services and supports to the youth and family as early as possible. Accordingly, informal options such as referrals to community based organizations, pre-adjudicated Wraparound services, or differential response shall be fully explored before formal dual status is recommended.

4. Responsibilities

- a. The Lead Agency will be responsible for the following:
 - (1) Placement;
 - (2) Case Management; and
 - (3) Compliance with the mandates of WIC §300 and/or §602 review hearings, Division 31 Regulations and Title IV-E Rules.
- b. The Assisting Agency will be responsible for the following:
 - (1) Assignment of an assisting Probation Officer or Social Worker;
 - (2) Assisting with the development of case plan services and supports;
 - (3) Providing non-duplicative services, as identified in the case plan; and
 - (4) Complying with agency protocol regarding case management, court hearings and reports.

C. LEAD COURT

1. General Overview

If the minor is designated a dual status minor, JPD and DFCS shall prepare a joint assessment and recommendation with one agency and one court being designated as the Lead Agency and Lead Court. The other court will be designated the Non-Lead Court. The Lead Court must be the court affiliated with the Lead Agency. Each court will continue to handle its own legal hearings.

2. Process

If no wardship is established, and the youth is involved with the Juvenile Dependency Court, then the Juvenile Dependency Court must be the Lead Court. If no dependency is established, and the youth is involved with the Juvenile Justice Court, then the Juvenile Justice Court must be the Lead Court. In all other circumstances a joint determination must be made as to which Court will function as the Lead. The Lead Court must be affiliated with the identified Lead Agency.

3. Responsibilities

Each Juvenile Court retains the legal authority to make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor. The Lead Court and the Non-Lead Court may also communicate and coordinate on a case-by-case basis to determine the appropriate forum for resolving specific issues. As a general guide the following summarizes the responsibilities of each Court for the purposes of this Protocol:

<i>Exclusively Dependency Court</i>	<i>Exclusively Juvenile Justice Court</i>
<ul style="list-style-type: none"> ✓ Appointment of CASA ✓ Indian Child Welfare Act ✓ Termination of parental rights ✓ Mediation ✓ School interview orders ✓ Case plan for parents ✓ Visitation for child ✓ School of origin decisions ✓ Protective custody warrants ✓ Legal guardianship issues ✓ Family reunification services for parents 	<ul style="list-style-type: none"> ✓ Appointment of CAFA ✓ Sanctions ✓ Fines, fees, restitution ✓ Custodial detention ✓ Issuance of bench warrants ✓ Terms of probation ✓ Fitness hearings ✓ Orders for Fresh Lifelines for Youth (FLY) ✓ Section 828 hearings ✓ Record sealing requests ✓ Violations of probation (VOP)

Lead Court
<ul style="list-style-type: none"> ✓ Placement ✓ Parental custody ✓ Special Immigration Juvenile Status ✓ AB 12 Extended Foster Care Services ✓ Supplemental petitions (section 778 or 387) ✓ Title IV-E ✓ Independent Living (Skill) Program ✓ Travel authorization ✓ Consent to treatment for minor

Case Specific	First in Time <i>(The court which first takes jurisdiction)</i>
<ul style="list-style-type: none"> ✓ Transfer In / Out ✓ Restraining orders ✓ Psychological evaluations 	<ul style="list-style-type: none"> ✓ Educational rights ✓ JV 220 (Psychotropic Medication) ✓ Parentage ✓ Family findings

Each Court's Responsibility		
✓ 827 Petitions	✓ Title IV-E Findings	✓ Case plan orders

D. ON HOLD DEPENDENCY JURISDICTION

1. General Overview

If the minor is a dependent child of the court and is receiving Family Maintenance or Permanency Services from DFCS, the minor's dependency status may be placed on hold by the Juvenile Justice Court and the minor may be made a ward of the Court.

2. Process

Minor will be selected to have his/her dependency status placed on hold based upon the agreement of both DFCS and JPD. A joint §241.1 assessment shall be prepared by DFCS and JPD. Factors to consider when assessing a minor to have their dependency case placed on hold include the minor's age, the seriousness of the offense, and the minor's psychosocial assessment. At the time that the Juvenile Justice Court declares a dependent minor to be a ward under §602, the Court shall "suspend dependency jurisdiction" as provided by §241.1(e) and §366.5.

- a. Approximately 60 days prior to the minor's expected completion of the court-ordered intervention, JPD shall calendar a Parte Review. The JPO shall report to the Court the minor's progress in the

program(s) in which the minor is participating, the intent to recommend dismissal upon the minor's completion of the intervention, and communication held with DFCS to address the minor's return to §300 Dependency status. The JPO shall recommend a subsequent Parte Review in approximately 60 days to submit the dismissal recommendation.

- b. Prior to dismissal, DFCS shall schedule a Team Decision-Making (TDM) meeting. The purpose of the TDM is: to create a seamless transition plan that will enable the minor to return to §300 dependency status with the least disruption to services and placement, while at the same time ensuring the safety of other minors and professionals involved in the dependency system; and have the JPO verify the current or last known address of the minor's parents or caretakers; and identify any changes to the family's circumstances. DFCS' Joint Decision Making Unit will arrange for the TDM. The JPO will notify the minor and the minor's parents of the date and time of the TDM. DFCS will notify the minor's dependency attorney, the JPO, any appointed CASA, the minor's parent's dependency court attorney, and any other persons deemed necessary of the time and place for the TDM. At the subsequent Parte Review, the JPO shall make recommendations to the court, including a recommendation for dismissal and release of the minor to the SW, if appropriate, and DFCS will advise the Juvenile Justice Court of the transition plan and future placement of the minor.
- c. If the Juvenile Justice Court determines that returning the minor to the parent will be detrimental to the minor, or §300 jurisdiction is necessary, or if the Juvenile Justice Court determines that it has insufficient information for making this determination, then the Court shall order that dependency jurisdiction be resumed and the case transferred to Dependency Court for further hearing within three court days. At that hearing the Dependency Court will set the matter for a new §366.3 hearing within 60 days.

IV. SPECIAL SITUATIONS

A. SUPERVISION WHEN A MINOR'S STATUS IS MODIFIED FROM JUVENILE JUSTICE TO DEPENDENCY JURISDICTION

1. For §602 wards who do not meet the criteria for §450 Transition Jurisdiction the ward's status may be modified from Juvenile Justice jurisdiction to Dependency jurisdiction if the following are true: the ward has met his or her rehabilitative goals; JPD is recommending dismissal; the ward is younger than 18 years; and, there are concerns that the ward

cannot be returned home safely. The Juvenile Justice Court can order a §241.1 report be prepared and a subsequent hearing shall be set. JPD and DFCS will collaborate to prepare a §241.1 report according to established processes.

2. If juvenile justice jurisdiction is modified to dependency jurisdiction, case management shall be provided by DFCS and hearings shall take place in Juvenile Dependency Court.

B. TRANSITION JURISDICTION

Pursuant to §450, once the Juvenile Justice Court determines that a §602 ward is within the transition jurisdiction of the juvenile court and has been successfully rehabilitated, i.e. probation status dismissed, supervision of the transition youth shall be determined as follows:

1. Probation will maintain supervision and all hearings will take place in Juvenile Justice Court for former wards in extended foster care who have never been adjudicated dependent under §300.
2. If the youth so chooses, DFCS will maintain supervision and all hearings will take place in Juvenile Dependency Court for former wards in extended foster care who are currently or formerly dependent and:
 - rehabilitative goals of the case plan have been met and §602 jurisdiction over the youth is no longer required,
 - reunification services have been terminated,
 - a hearing has not been set for termination of parental rights or the establishment of a guardianship
 - the return of the minor to the parents or legal guardian would create a substantial risk of detriment to the minor's safety, protection, or physical or emotional well-being, and
 - the minor has expressed intent to sign a Mutual Agreement (SOC 162) with the responsible agency for placement in an eligible placement as a NMD and agree to meet one of the five federal participation criteria.
3. Notwithstanding the above, DFCS and JPD may make arrangements on a case-by-case basis for supervision of a youth by a particular agency and court, provided the agencies are in agreement and the court so orders.

Once the Juvenile Justice Court determines the youth comes within the provisions of WIC §450, the court shall select a date no later than six months from the date wardship was terminated for a non-minor dependent status review. No further action shall be required of the youth to come within the court's transition jurisdiction.

C. IF A NON-MINOR DEPENDENT BECOMES SUBJECT TO ADULT PROBATION SUPERVISION

If an NMD becomes subject to adult probation supervision, as appropriate, the agency supervising the NMD will coordinate services with Adult Probation. If additional resources or services are needed for an NMD who is under the supervision of Adult Probation, the agency supervising the NMD shall request an MDT.

V. DATA

Data collection and reporting is a significant element of the county's Memorandum of Understanding regarding dually involved youth. A data matrix was developed to identify indicators that measure desired outcomes delineated in the MOU. A data application was developed to support indicators not currently tracked by either the child welfare or juvenile justice system. The application tracks baseline, process, service need and receipt, progress and closure outcome indicators. Data will be tracked at time of referral to the Dually Involved Youth Unit, six months after referral, twelve months after referral and at time of case closure from the Unit.

Judge Patrick E. Tondreau
Presiding Judge, Juvenile Division
Supervising Judge, Juvenile Justice Courts

Date

Judge Shawna M. Schwarz
Supervising Judge, Juvenile Dependency Courts

Date

Robert Menicocci
Acting Director of Social Services Agency

Date

Lori A. Medina
Director, Department of Family and Children's Services

Date

Laura Garnette
Chief Probation Officer

Date