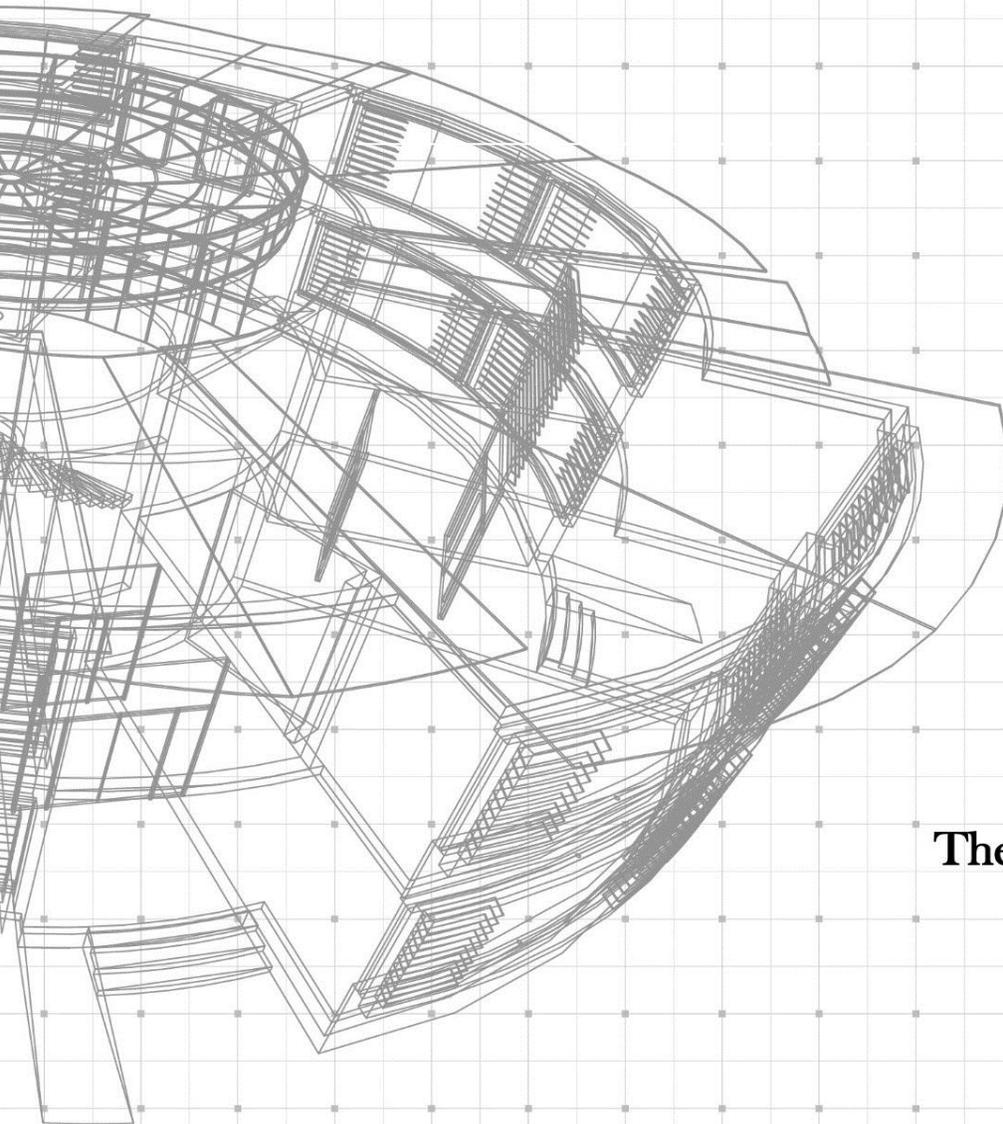


## CHAPTER EIGHT

# Pre-trial Release and Monitoring

Orleans Parish Criminal District Court



The New Orleans  
**blueprint**  
*for* **safety**

# Pre-trial Release and Monitoring

Many years ago, the Judges of Criminal District Court responded to the need to address domestic violence cases at the onset through development of the Domestic Violence Monitoring Court program (DVMC). The DVMC is dedicated to victim safety and adherence to the conditions of a protective order. Offenders are assessed for lethality, risks and treatment needs. Those who have been diagnosed with mental illness or who may suffer from a substance abuse disorder are offered treatment opportunities. The primary goals of DVMC include safety of the victim, children and loved ones; reduction of recidivism; offender accountability; and behavior modification treatment. The mission of the DVMC is to give substance to the enforcement of protective orders through monitoring of the defendant from the beginning of the case through case closure.

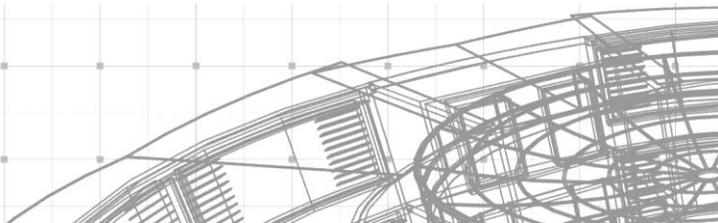
The *Blueprint for Safety* represents the collaboration of criminal justice agencies within the City of New Orleans to develop a coordinated criminal justice response to domestic violence. Domestic Violence Monitoring Court, along with the City's other *Blueprint for Safety* agencies, is committed to a set of shared foundational principles that maximize safety for victims of domestic violence and holds offenders accountable while offering them opportunities to change. These foundational principles are:

- Adhering to an interagency approach and collective intervention goals;
- Building attention to context and severity of abuse into each intervention;
- Recognition that most domestic violence is a patterned crime requiring continuing engagement with victims and offenders;
- Ensure certain and swift consequences for continued abuse;
- Send messages of help to victims and messages of accountability to offenders; and
- Act in ways that reduce unintended consequences and the disparity of impact on victims and offenders.

The Orleans Parish Domestic Violence Monitoring Court shall ensure participation in ongoing interagency Blueprint monitoring, evaluation, and maintenance.

## Program Description

The DVMC is a court ordered supervised monitoring program available to persons arrested and/or convicted for Domestic Violence offenses in Orleans Parish. Pretrial supervision may be ordered as a condition of the terms of release for defendants who post bond. Probation supervision may be ordered as a special condition of probation for defendants who are either found guilty or plead guilty to a domestic violence related offense. DVMC plays a critical role in pre-trial release and post-conviction supervision in domestic violence cases. Once released to the community, conscientious



monitoring and supervision can help discourage and interrupt an offender's efforts to intimidate a victim. The conditions of release and probation supervision place controls on the offender's behavior that will enhance the safety of the victim and make re-offense less likely.

DVMC accepts all cases determined to be a result of domestic violence by the New Orleans Police Department, District Attorney's office and/or a Judge/Commissioner. DVMC Monitors are specifically assigned to participants. Offenders are required to report to their assigned DVMC Monitors on a weekly basis, attend behavior modification counseling, participate in community based programs (based on needs) and submit to random drug testing. (NOTE: See Drug Testing Policy contained herein and The CIS Drug Testing Lab Policy and Procedure Manual, which includes detailed information and guidelines regarding lab testing operations and guidelines.) Offenders who are thought to pose a high level of risk to the victim or others receive more intensive monitoring through frequent in-person reporting. Monitors remain alert to indications that the defendant may be/is violating a protective order or intimidating the victim and respond promptly to any violations of conditions of release or probation. When an offender engages in behavior that has safety implications for the victim, Monitors will immediately notify the supervising Judge/Commissioner of such violation(s).

The Domestic Violence Monitoring Court manages risks. That task is fourfold:

1. work with the offender to help change the behaviors that have resulted in the case;
2. remain aware of signs that the abuse and violence might be reoccurring;
3. find the right (and available) kinds of rehabilitation programs; and
4. act swiftly each time the offender pushes against the controls over his or her abusive behaviors.

Working in connection with the inter-agency approach, DVMC is positioned to relay and reinforce the messages intended by the overall response:

- Change is possible.
- Accountability is the first step toward change.
- Continued abuse will not be tolerated.
- There is a network of help available to support an offender's efforts to change abusive behaviors

## **Benefits of Domestic Violence Monitoring Court**

Upon successful completion of the DVMC Program, the client may benefit in the following manner:

- Live a violence free home life
- Live a clean and sober life
- Achieve a stable living environment
- Obtain gainful employment
- Develop skills to rebuild healthy family relationships
- Successful participation in treatment and education for recovery
- Successful participation in treatment and education for a mental health diagnosis
- Improvement of life/social skills

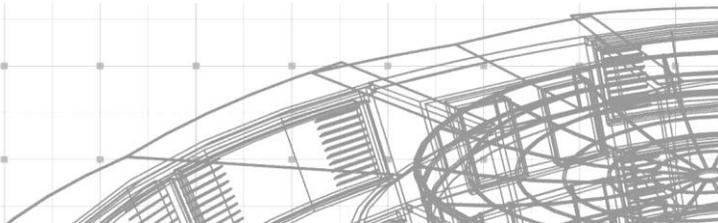
## **Treatment Services**

The DVMC does not provide direct treatment services; however, offenders are assessed for risk and need during the Intake process, pursuant to which DVMC Monitors develop a case management plan. Offenders are screened for lethality, mental health issues, substance abuse problems, trauma-related issues and educational/vocational needs. Based on the results of the assessment, participants receive early intervention for any such risks/needs. A participant may be referred to batterer intervention programs or no abuse/behavior modification classes, parenting classes, detox, substance addiction treatment, trauma treatment and/or mental health treatment through programs with our community partners. In addition, special attention is given to determine whether a person is actually a victim of domestic violence. If such is the case, he or she will be referred to the proper support services as well.

Community partners include, but are not limited to: The No Abuse Coalition, Family Services of Greater New Orleans, The Family Justice Center, Harmony House, Metropolitan Human Services and several other practitioners. DVMC Monitors oversee compliance of the treatment services and report non-compliance to the supervising Judge/Commissioner.

## **DVMC Monitors**

Domestic violence is a complex crime because it encompasses very different acts of violence occurring in different circumstances for various reasons; thus, a single approach to deterrence will not work. Close supervision of domestic violence offenders coupled with a certain and swift response to violations helps reduce repeat violence. The DVMC Monitors play an integral role in the program. Monitors have specialized roles and functions in responding to domestic violence-related cases, including the following:



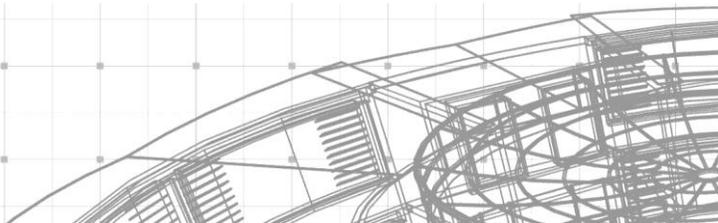
1. Implementation of the provisions outlined in the DVMC policy.
2. Execution of conditional release and probation conditions, as ordered by the Court.
3. Supervision of all defendants granted conditional release or placed on probation by the Court and monitoring compliance with the Court's conditions.
4. Respond promptly to all violations in a manner appropriate to the alleged violation(s).
  - a. Assess each violation for its seriousness and its potential impact on the defendant's likelihood for failure to appear or for re-arrest, with particular attention to those violations that pose danger to the victim or the public.
  - b. Respond with the course of action appropriate to the nature of the violation.

### **Administration and Supervision of DVMC Monitors**

Agency supervisors and administrators are responsible for organizing the response to domestic violence offenders, as noted below, according to their respective roles and job functions.

1. Oversee implementation of the DVMC policies.
2. Ensure that the following elements are established and provided in response to domestic violence cases:
  - a. Availability of accessible programs for offenders
  - b. Program evaluation and quality control specific to all domestic abuse-related policies and protocols
  - c. Training focusing on the *Blueprint for Safety*
  - d. A combination of hiring practices and/or training that allows Monitors to develop a keen understanding of domestic violence
3. Conduct regular reviews of the DVMC response to domestic abuse-related cases, with specific attention to enforcement of conditions of release and/or probation conditions and the response to violations.
4. Assign all cases where strangulation or stalking is part of the current offense, or where there is a history of such actions, to high-risk supervision conditions.
5. Ensure that interpreters are available to monitor as needed in communicating with offenders and victims.

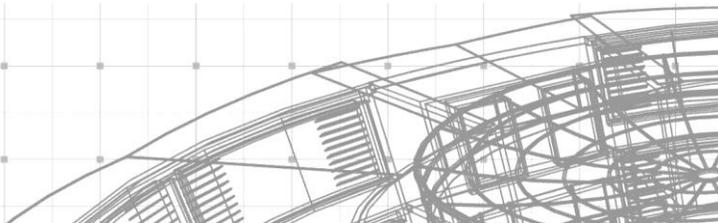
6. Ensure that monitor referrals to domestic abuse treatment utilize programs that reflect guidelines for maximizing the effectiveness of such programs, including:
  - a. Enrollment in the most appropriate program as soon as possible after conditional release and/or probation begins;
  - b. Swift and certain response for noncompliance with program requirements;
  - c. Strong communication with program facilitators; and
  - d. Intensive programming if the offender has engaged in severe or ongoing violence, intimidation, and coercion of an intimate partner in conjunction with a history of non-domestic violence crime.
7. Maintain current lists of community resources to which offenders and victims can be referred for assistance.
8. Work with other agencies to establish procedures whereby other intervening agencies provide automatic notification of their contacts with offenders.
9. Work toward developing outcome and compliance measures for domestic violence–related cases.
10. Provide or arrange for training on supervision of offenders in domestic abuse-related cases.
11. Update policies, protocols, and training memos annually to reflect changes in law.
12. Conduct program evaluation and quality control specific to *Blueprint for Safety* policies and protocols and communicate with Monitors to clarify and reinforce policies and protocols.



# Pre-trial Release Supervision Protocol

1. If conditional release is ordered (a protective order may be issued as well), defendants are expected by the Court to report to the DVMC program within 24 hours of their release. Monitors will do the following:
  - a. Verify the address where the defendant will be staying after release.
  - b. Schedule an intake with the defendant and create a file.
  - c. Reinforce the conditions of release and the protective order and the importance of following the court's orders and possible consequences for violations, and when and how to contact DVMC.
  - d. Have the defendant sign any required releases of information.
  - e. Provide information about how and where random drug or alcohol testing will take place (the location and hours of the Drug Testing Lab and the testing procedure).
  - f. If a mental health evaluation is required, provide information about where the evaluation may be conducted and the time frame for completion.
  - g. If the court has ordered that the defendant take psychotropic medications as prescribed, ensure that the defendant has executed a release of information consenting to allow the conditional release monitor to talk with the doctor about medication compliance, unless the judge has ordered another method of monitoring.
2. Each participant must sign a contract to be enrolled into the program. By order of the Court, a participant may be terminated from the program at any time for violation of any part of the contract or the rules as set forth therein.
3. Determine the frequency and manner of contact with the DVMC Monitor based on risk. In cases of high risk to the victim, more frequent in-person reporting should be mandated.
4. Provide other community referrals to the offender as deemed appropriate or requested by the offender, e.g., assistance with employment, housing, counseling, medical care, and education.
5. Thoroughly document, in the court monitored database, all contacts with the defendant, the defendant's compliance with conditions, contacts with the victim, and actions taken.
6. Respond promptly to violations of conditional release not related to victim or community safety.

- a. These violations may include:
  - Failure to report or call in.
  - Failure to notify DVMC regarding a change in employment or residence.
  - Failure to obtain prior permission to travel.
  - Failure to execute required releases.
  - Failure to submit to a random drug test when requested.
  - Failure to complete a mental health assessment.
  - Failure to take prescribed medications.
  - Any other violation not directly related to victim safety or the safety of the community.
- b. Monitors shall take the following actions in response:
  - First: Evaluate the seriousness of the noncompliance, taking into account the nature of the condition, the reason for the noncompliance, the seriousness of the violation, the defendant's compliance history, and information about dangerousness gleaned from the risk assessment and bail evaluation about dangerousness.
  - Second: Determine the appropriate course of action, which may include an attempt to contact the offender to report to the DVMC office to discuss the violation. Report the violation to the Court immediately if the Monitor is unable to reach the offender within a 24-hour period.
  - Third: Notify the supervising Judge or Commissioner of the violation.
    - a. Possible sanctions:
      - Verbal warning
      - Written warning letter
      - Increase frequency of phone contact
      - Increase frequency of in-person reporting
      - If information gathered from the risk assessment and bail evaluation indicate a high level of risk, request a warrant even if the alleged violation appears to be minor.
    - b. If the defendant's whereabouts are unknown or if the violation raises concerns about the victim's safety, request a warrant.



7. Respond promptly to drug or alcohol-related violations:

a. Drug testing violations include any of the following:

- Positive test results
- Failure to test as required
- Refusal or inability to submit a sample
- Submission of a sample for which there is a suspicion of tampering (includes “dilutes”)

NOTE: Failure to report and failure to cooperate with testing are viewed as significant because such actions are often indicative of active drug use by the defendant. When a defendant appears for testing but says he or she is unable to submit a sample, every effort shall be made to facilitate the defendant’s successful submission of a sample.

b. Possible sanctions:

- Verbal warning
- Send written warning letter
- Increase frequency of drug testing
- Increased frequency of in-person contacts
- Require attendance at drug educational program

NOTE: If the defendant fails two or more drug or alcohol screens, request a warrant.

c. If the defendant’s whereabouts are unknown or if the violation raises concerns about the victim’s safety, request a warrant.

8. Respond promptly to violations of conditional release related to violence or safety.

a. Violations related to violence or safety include any of the following:

- Failure to surrender firearms (for those offenders prohibited by law from possessing firearms)
- Repeated failures of drug or alcohol tests
- A new offense (whether or not the new offense has been charged), including:
  - Violation of a stay away order
  - New assault or violent crime
  - Prohibited person in possession of firearm or ammunition
  - Other criminal offenses

- b. Review the court calendar daily to determine if a defendant already on conditional release has been re-arrested and is appearing on a new charge. Document all new arrests and convictions in the court monitored database.
9. On suspicion of an offender's violation of any condition of release, make an effort to determine whether the suspicion is correct, provable, and linked to victim safety (including secondary victims); proceed with notifying a judge and a probation officer (if the participant is already on active probation) of the violation.

NOTE: If the violation is based upon an allegation of assaultive, threatening, or stalking behavior or a crime against any victim, the property of a current or a former victim, or violation of a stay away order provision, notify supervising Judge/Commissioner immediately.

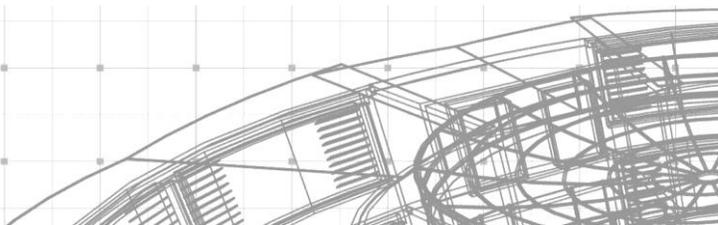
10. Court hearings for violations of conditional release:
  - a. Prepare and distribute to the Court, prosecutor, and defense attorney a written report detailing all violations of the conditions of release with recommendations for court action.
  - b. Notify the defendant about the date, time, and location of the hearing.
  - c. Attend the hearing and be prepared to respond to questions about the report and the defendant's compliance or non-compliance and to provide recommendations.
  - d. Discuss violations with the prosecutor and defense attorney, with particular emphasis on those violations that pose a risk to victim or community safety.

# Probation Supervision Protocol

Monitors will take the following actions in supervising probationers in domestic abuse–related cases, using the certain protocols as follows:

1. If the probationer is not currently participating in the program:
  - a. Notify probationer of location of office, name of assigned Monitor, and date and time to report for intake.
  - b. Meet with probationer upon sentencing to screen and assess level of risk and need.
  - c. Ensure that the probationer understands what is required, promptly meet with the probationer to review and, if necessary, clarify each condition of probation, each notification (including firearms restrictions and other prohibitions), and the supervision process.
  - d. Reinforce the conditions of release and the protective order and the importance of following the Court’s orders and possible consequences for violations, and when and how to contact DVMC.
  - e. Each participant must sign a contract to be enrolled into the program. By order of the Court, a participant may be terminated from the program at any time for violation of any part of the contract or the rules as set forth therein.
  - f. Provide information about how and where random drug or alcohol testing will take place (the location and hours of the Drug Testing Lab and the testing procedure).
  - g. If a mental health evaluation is required, provide information about where the evaluation may be conducted and the time frame for completion.
  - h. If the court has ordered that the probationer take psychotropic medications as prescribed, ensure that the probationer has executed a release of information consenting to allow the Monitor to talk with the doctor about medication compliance, unless the Judge has ordered another method of monitoring.
  - i. Explain and conduct supervision in the probationer’s first language or provide interpretation or communication assistance to probationers with limited English proficiency or with hearing or speech disabilities. Explain and conduct supervision using language and communication strategies that address the probationer’s literacy and cognition level.

2. Ensure that the probationer signs consent forms, allowing the release of records, information sharing regarding programs and services related to probation conditions, and information sharing regarding continued or escalating risk. Releases should include:
  - a. Release of records:
    - From probation to court-ordered programs and service providers
    - From court-ordered programs and service providers to Monitors
  - b. Information sharing and discussion regarding attendance, indications of continued or escalating risk, and the offender's cooperation with the program:
    - From probation to all programs and service providers to which the probationer has been court-ordered and vice versa.
    - From all court-ordered programs and service providers working with the probationer to probation.
    - Between all programs and service providers to which the probationer has been court-ordered.
3. Coordinate between the probationer and treatment programs or social service agencies to ensure programming that fits the severity of the offense, risk to the victim (including secondary victims), and promotes compliance. Assist the probationer in entering and successfully completing rehabilitative services.
4. Provide appropriate program referrals. Referrals should be based on the following:
  - a. Severity of offense and risk posed by the offender.
  - b. Consideration of whether the probationer was the object of an ongoing pattern of violence from the victim in this case.
  - c. Licensed treatment programs, utilizing evidence-based treatment programs.
  - d. Utilization of programs that allow quick entry into programming.
  - e. Consideration of other risk/needs that should be addressed to avoid ongoing criminality.
5. Promptly notify the victim of the probationer's status and probation conditions and of the name and contact information for the supervising DVMC Monitor.

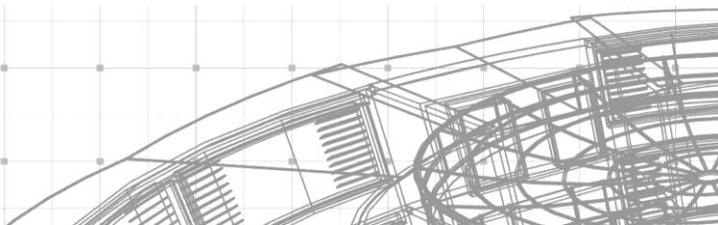


6. Conduct routine monitoring in-office visits for:
  - a. Compliance with all probation/program conditions.
  - b. New stay away orders, orders for protection, and police contact.
  - c. Changes in life circumstances that might indicate risk.
  - d. Alcohol and drug use if related to probation/program conditions or the victim's concerns.
  - e. Participation in and compliance with rehabilitation programming.
7. Respond to violations of probation to ensure certain and swift consequences for failure to adhere to probation conditions and/or program conditions.
8. Respond promptly to violations of probation not related to victim or community safety, drug or alcohol-related violations and/or violations of conditional release related to violence or safety in the same manner as noted above for those participants on conditional release (see paragraphs 6 – 8 under *Pretrial Release Supervision Protocol*).
9. On suspicion of an offender's violation of any condition of probation, make an effort to determine whether the suspicion is correct, provable, and linked to victim safety (including secondary victims); proceed with notifying a judge and a probation officer (if the participant is on active probation) of the violation.

NOTE: If the violation is based upon an allegation of assaultive, threatening, or stalking behavior or a crime against any victim, the property of a current or a former victim, or violation of a stay away order provision, notify supervising Judge/Commissioner immediately.

10. Violation of probation conditions may result in the following:
  - revocation of probation and execution of original sentence;
  - extension of term of probation; and/or
  - imposition of additional terms of probation.

11. Whenever any of the following events occur, the Supervising Judge should be immediately notified:
  - a. Suspected violation of probation.
  - b. Offender misses two program groups in a row.
  - c. A new order for protection is issued.
  - d. A positive drug test result.
  - e. Offender misses two meetings with the DVMC Monitor.
12. Use diligent efforts to protect the victim or victims from retaliation when suggesting enforcement action for probation violations.
13. Be aware of the following factors that often precede new assaults:
  - a. Inability of probationer to stop excessive drug or alcohol use.
  - b. The victim making a permanent break with the probationer.
  - c. The victim entering a new relationship.
  - d. The victim cooperating with any adversarial legal action against the probationer.
  - e. Obsessive behaviors toward the victim or children.
  - f. Stalking or surveillance of the victim or her/his family and/or friends.
  - g. Pressuring his/her way back into the victim's home.
  - h. The victim seems unable to speak to the Monitor without fear or exhibits anger toward intervening practitioners.
14. Be cognizant of and responsive to situations and behaviors associated with an increased risk for re-offense with probationers who have documented histories of being abused by the victim in the case and who are now on probation for using reactive violence.



15. To the extent possible, notify local police and probation to:
  - a. Monitor the probationer's activity in the community.
  - b. Check on the welfare of victims.
  - c. Identify probationers needing increased monitoring in the community.
16. Maintain case notes, in the court monitored database, in sufficient detail to:
  - a. consistently monitor and enforce probation conditions;
  - b. keep other interveners informed of the probationer's actions; and
  - c. guide others who might need to act for the supervising Monitor in his or her absence as new information becomes available regarding acts of intimidation, coercion or violence.
17. Maintain case notes in sufficient detail to:
  - a. Provide the documentation to consistently monitor and enforce probation conditions.
  - b. Keep other parties informed of the probationer's actions.
  - c. Ensure consistency across a temporary or permanent change in the assigned Monitor.
  - d. Prepare required reports for the Court and other parties.
18. Court hearings for probation violations:
  - a. Prepare and distribute to the Court, prosecutor, and defense attorney a written report detailing all violations of the program conditions with recommendations for court action.
  - b. Notify the defendant about the date, time, and location of the hearing.
  - c. Attend the hearing and be prepared to respond to questions about the report and the defendant's compliance or non-compliance and to provide recommendations.
19. Discuss violations with the prosecutor and defense attorney, with particular emphasis on those violations that pose a risk to victim or community safety.

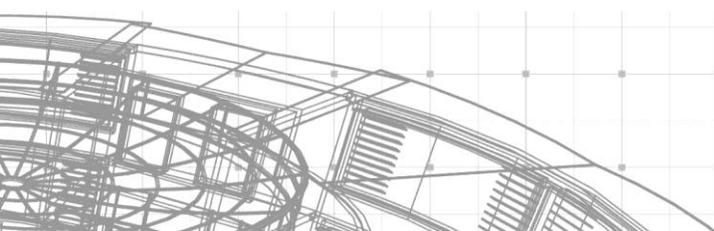
# **DVMC Program Policy**

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Upon acceptance into the DVMC Program, each participant is provided with the following guidelines:

1. You must comply with any Protective Orders and/or Domestic/Non-Domestic stay away orders issued by the Court.
2. You must not use, maintain or be in the presence of any illegal drugs, synthetic drugs or drug paraphernalia. This includes alcohol and the misuse of prescription drugs.
3. You must not possess, carry or own any firearms.
4. You must participate in all required treatment programs (i.e. Parenting, Counseling, Mental Health, Substance Abuse, etc.).
5. You must report timely for all scheduled Court status/probation review hearings.
6. You must timely report to all appointments with the DVMC Monitor and others, including the Department of Probation and Parole (if applicable) and treatment providers and counselors.
7. You must always stay current with all fees owed to the Court and the Department of Probation and Parole.
8. You must attend weekly batterer intervention program/behavior modification. If you do not report on time for weekly sessions reflects non-compliance.
9. You must enroll in and/or work towards obtaining a high school education or a GED, if you have not already done so.
10. You must notify your doctor of your participation in this program before he/she prescribes medication for you and you notify the DVMC Monitor of all medications and provide a valid prescription for such medication.
11. You must adhere to any medication schedule provided by your physician.
12. You must obtain and/or maintain employment.
13. You must obey all laws - Municipal, State and Federal. You must not incur any new municipal or criminal charges.

14. You must not leave the jurisdiction of the Court without first obtaining permission to leave the jurisdiction from the Court and/or your Probation officer (if you are on active probation).
15. You must inform your DVMC Monitor and the Court of any change in your residence or employment so that your personal information is always accurate. You must submit a Change of Address Form with the office of the Clerk of Criminal District Court.
16. You must obey any curfew set forth by the DVMC.
17. As required, you must submit to random drug testing (to be conducted at the Drug Testing Lab located at Criminal District Court between the hours of 8 am and 5 pm).
18. If you are sentenced to active probation by Criminal District Court, you must comply with the requirements and regulations of the Department of Probation and Parole.



## Victim Engagement Guidelines

DVMC recognizes the need to assess the applicable circumstances for victim safety and the need for services. In supervising offenders, the DVMC Monitors will follow these guidelines vis-a-vis victims:

1. Contact the victim to inform her/him of the conditions of release or the conditions of probation. Conversation with the victim should include only:
  - a. Conditions of the conditional release order or conditions of probation;
  - b. Information regarding the issuance of a protective order;
  - c. The date and time of the next court hearing;
  - d. Information regarding how to report violations of conditional release or probation and the phone number for DVMC; and
  - e. Referral to the Family Justice Center and other community resources for assistance.
2. Work in collaboration with victims, cognizant of the principles of “continuing engagement.”
  - a. Whenever possible, minimize the victim’s need to confront the offender.
  - b. When using information provided by the victim, protect her or him from retaliation by not identifying the victim as the source of the information.
  - c. Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
  - d. Be mindful of the complex and often-dangerous implications of a victim’s collaboration with interveners.
  - e. Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to “tell all,” although they may do so in unguarded moments. Take great care to not endanger victims with what they have shared about their lives.
  - f. Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him as simply an information source.

