

SAN FRANCISCO COLLABORATIVE COURT Eligibility Guidelines
Community Justice Court, Drug Court, Young Adult Court,
Misdemeanor Behavioral Health Court
June 1, 2016 – December 31, 2016

I. Residence Eligibility

Community Justice Court: Participants who will be case managed by the Department of Public Health must be residents of San Francisco.

Drug Court: No residency requirement.

Young Adult Court: No residence restriction; however, given YAC's limited capacity, priority will be given to individuals with connections to San Francisco, including family and other supports.

Misdemeanor Behavioral Health Court: Participants who will receive Department of Public Health-funded services must be residents of San Francisco.

II. Suitability Requirement

Community Justice Court: Participant must be connected to the CJC region as specified in the CJC Policy Manual.

Drug Court: Participant must have a serious underlying substance abuse problem.

Young Adult Court: Participant must be 18-25 years of age.

Misdemeanor Behavioral Health Court: Participant must have a severe and persistent mental illness connected to the offense.

III. Referral Process

The SFDA will require its ADAs to obtain approval from their Managing Attorneys to refer cases in the following situations:

- Any felony case that cannot be referred as an open matter (e.g. not eligible on a pre-plea or DEJ basis) per collaborative court eligibility guidelines;
- Any case with disqualifying conditions per these guidelines;
- Any case referred post-preliminary hearing in which a victim testifies.

IV. Legal Eligibility

A. Misdemeanor Offenses

1. All misdemeanors are eligible on a pre-plea basis, **except** the following:
(1) drunk driving or other driving offenses, (2) gang allegations, (3) hate crimes, (4) domestic violence, (5) elder abuse, (6) crimes involving

children, and (7) gun and weapon cases, (8) offenses with potential sex offender registration requirements, including but not limited to PC 243.4, 290, 314.1 and 647.6, (9) stalking cases, (10) arson cases, (11) cases that have been reduced to a misdemeanor over the objection of the District Attorney pursuant to 17(b) for felony charges that are not pre-plea eligible.

2. The above-enumerated misdemeanor offenses are eligible following a grant of probation only upon approval of the collaborative court judge. The District Attorney may offer a deferred entry of judgment (DEJ) disposition on a case-by-case basis. The case must be resolved and plea entered within six (6) weeks of commencing participation in the collaborative court for the individual to be eligible.
3. Unless waived by the District Attorney, an individual charged with four or more pre-plea eligible misdemeanor cases* will be eligible for collaborative court following a grant of probation only. All cases must be resolved and plea(s) entered within six (6) weeks of commencing treatment in the collaborative court for the individual to be eligible.
4. Once a client who has been referred to a collaborative court is arrested or cited for an additional offense, the judge may initiate an evaluation of legal suitability to remain on a pre-plea basis.

B. Felony Offenses

1. The following felony charges are eligible on a **pre-plea basis**, providing that the individual does not have any disqualifications listed below. Quantities or amounts indicated pertain to individual cases.
 - i. Sale or Possession for Sale Offenses, including Health & Safety Code sections 11351, 11351.5, 11352, 11359, 11378, 11378.5, or 11379 involving less than 5 grams of controlled substances (or less than 2 ounces of marijuana):
 - ii. Felony Theft Offenses, including Penal Code sections 459 2nd, 475, 487(a)&(c), 496, or 666, where the restitution amount is under \$2000.
 - iii. Felony Auto Offenses, including Penal Code section 459 2nd and Vehicle Code section 10851 where the restitution amount is under \$2000.
 - iv. Vandalism Offenses, including Penal Code section 594, where the restitution amount is under \$2000.

2. The following felony charges are eligible on a **DEJ basis**, providing that the individual does not have any disqualifications listed below. The case must be resolved and plea entered within six (6) weeks of commencing treatment in the collaborative court for the individual to be eligible. Quantities or amounts indicated pertain to individual cases.
 - i. Sale or Possession for Sale, including Health & Safety Code sections 11351, 11351.5, 11352, 11359, 11378, 11378.5, or 11379 involving between 5 and 20 grams of controlled substances (or between 2 and 5 ounces of marijuana).
 - ii. Felony Theft, including Penal Code sections 459 2nd, 475, 487(a)&(c), 496, or 666, where the restitution amount is between \$2000 and \$4000.
 - iii. Felony Auto Offenses, including Penal Code section 459 2nd and Vehicle Code section 10851 where the restitution amount is between \$2000 and \$4000.
 - iv. Vandalism offenses, including Penal Code section 594, where the restitution amount is between \$2000 and \$4000.
 - v. Assault (245)(a)(4).
 - vi. For YAC only: Robbery (211 2nd) with no weapon or injury. In all other collaborative courts, the District Attorney must expressly consent to having a robbery (211 2nd) charge in the collaborative court.
3. All other felonies with a probationary disposition are eligible for referral to collaborative court following the grant of probation. The District Attorney may offer a DEJ disposition on a case-by-case basis. The case must be resolved and plea entered within six (6) weeks of commencing treatment in the collaborative court for the individual to be eligible.
4. Unless waived by the District Attorney, an individual charged with **three or more open eligible felony cases*** will be eligible for collaborative court following a grant of probation only. All cases must be resolved and plea(s) entered within six (6) weeks of commencing treatment in the collaborative court for the individual to be eligible.
5. Unless waived by the District Attorney, all **co-defendant cases**, regardless of the charge, require guilty pleas with a DEJ or grant of probation prior to the admission into collaborative court for all "eligible" case-types. For situations in which one defendant is collaborative court eligible and the other is not, the qualifying co-defendant will not be admitted into the collaborative court unless the District Attorney handling the matter agrees

* Cases involving multiple events will be considered as separate cases.

to the severance that would result from the co-defendant's admission into collaborative court.

6. **Motions to Revoke Probation, Mandatory Supervision, and PRCs:**
 - i. If a defendant is on supervision for an offense that is ineligible for collaborative court, the individual is presumptively not eligible to participate in collaborative court.
 - ii. For all supervision cases, the defendant shall make an admission to the violation upon commencing participation in collaborative court, unless there is an agreement to the contrary. If the defendant does not complete the collaborative court program, the defendant will be subject to all potential consequences of the negotiated sentence or revocation.

C. Disqualifying Conditions. If a disqualifying condition exists, the District Attorney may agree to waive the limitation on a case-by-case basis. Disqualifying conditions include the following:

1. Current offense(s) involving the use of a firearm.
2. Prior successful completion[†] of the same collaborative court within 5 years.
3. Prior conviction of or sustained petition for a "strike" (serious or violent felony pursuant to Penal Code section 667.5(c) and 1192.7(c) offense) within eight years of the current offense.
4. Active membership in an organized street gang, as determined by the District Attorney with input from defense counsel.
5. Current offenses in which great or serious bodily injury is alleged. Penal Code section 245(a)(4) alone is not an allegation of serious bodily injury.

D. Plea/Probation Reductions

Negotiated benefits of successful completion of collaborative court shall include the following, unless there is a negotiated disposition to the contrary at the time the participant enters:

1. For **pre-plea cases (diversion):**
 - Dismissal of a case pursuant to PC 1000.5/1001.7 and sealing of arrest and related court files and records pursuant to PC 851.90/1001.9;
2. For **post-plea cases (DEJ):**
 - The reduction of a felony plea to a misdemeanor conviction for 17(b) eligible offenses;

[†] This does not apply to individuals completing Pretrial Diversion at a collaborative court.

- The withdrawal of a plea to a strike offense in lieu of additional terms agreed to by the parties;
 - The withdrawal of a plea and dismissal pursuant to PC 1000.3/1000.9 and sealing of arrest and related court files and records pursuant to PC 851.90; and
3. For **probation cases**:
- Reduction of length of probation term pursuant to PC 1203.3 and permanent stay of fines, fees and conviction pursuant to PC 1203.4;
 - The reduction of a felony plea to a misdemeanor conviction for 17(b) eligible offenses.

E. Restitution Requirement

For any case involving loss of or damage to property or person, restitution will be ordered.

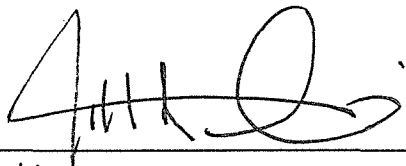
F. Parallel Actions

For cases in which there are parallel actions related to the criminal case (e.g. asset forfeiture matters), those matters must be resolved within six (6) weeks of commencing treatment in the collaborative court for the individual to be eligible.

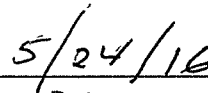
V. Confidentiality

No statement or information procured from statements made by the defendant to any Probation Officer, collaborative court staff, program case manager, service provider, or any member of the collaborative court team, including the Judge and District Attorney, that is made during the course of referral to or participation in a collaborative court, shall be admissible in any subsequent action or criminal proceeding in this jurisdiction or shared with any individual, agency, or entity outside of the collaborative court. Additionally, urinalysis results shall not be used in any subsequent action or criminal proceeding in this jurisdiction or shared with any individual, agency, or entity outside of the collaborative court. Disclosures required under the law (e.g. *Tarasoff* warnings) are exempted from this provision.

The parties hereto do mutually agree to the San Francisco Collaborative Court Eligibility Guidelines by this Memorandum of Understanding.



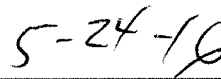
Jeff Adachi
San Francisco Public Defender



Date



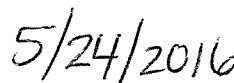
George Gascón
San Francisco District Attorney



Date



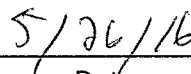
Karen Fletcher
San Francisco Chief Adult Probation Officer



Date



John K. Stewart
Presiding Judge, San Francisco Superior Court



Date

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ADDENDUM 12/13/17

Note: changes to the original language are marked in italics.

Open Cases (this policy replaces IV.A.3 and IV.B.4):

A participant can have a total of four (4) open, pre-plea eligible cases, of which no more than two (2) are felonies.

Unless waived by the District Attorney, an individual charged with more than *four (4) open cases or more than two (2) open felony cases* will be eligible for collaborative court following a grant of probation only. All cases must be resolved and plea(s) entered within six (6) weeks of commencing treatment in the collaborative court for the individual to be eligible.

Motions to Revoke Probation, Mandatory Supervision, and PRCS (this policy replaces IV.B.6.ii AND applies to both misdemeanors and felonies):

For all supervision cases, the defendant shall *resolve the violation within 3 weeks of commencing treatment* in the collaborative court, unless there is an agreement to the contrary. If the defendant does not complete the collaborative court program, the defendant will be subject to all potential consequences of the negotiated sentence or revocation.