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CENTRALIZED CDV COURT

a guide to establishing a CDV court in your county

Reviewed by South Carolina Court Administration

Distributed by:
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Why create a centralized court for cases of Criminal Domestic Violence?

Domestic violence cases are unlike any other criminal case in the justice system. In no other case will one find all of the dynamics present in a domestic violence case. A victim of a robbery does not typically lie on the stand to keep the defendant out of jail. A carjacking victim will not have to go home with the perpetrator of that crime after the trial is over. In domestic violence cases, the victim and defendant are intimately linked. They have lived together, are married or once were, and may have children together. *The “bad guy” in these cases is not a shady figure in a dark alley; he is the victim’s friend and lover.*

A centralized court creates the environment necessary for the trial of these unique cases. A set day and time for court each week or month allows representatives from various service organizations (i.e., batterer treatment programs, domestic violence shelters and organizations, victims’ advocates, etc.) to be present in court to offer their services. In addition, a centralized court is most conducive to the availability of a prosecutor, relieving law enforcement from the responsibility of prosecuting the case and keeping the judge in his or her rightful place as an impartial party.

What are the costs of creating a Centralized CDV court?

Creating a centralized CDV court is primarily an administrative task and involves very minimal additional costs. It is principally a matter of reorganization and not a matter of hiring new personnel, etc. In fact, you may find that the creation of a central CDV court ultimately saves your County or Municipality money and transportation costs.

What about the distribution of fines?

As is stated in the South Carolina Bench Book, “all fees collected by magistrates for the performance of their judicial acts must be regularly transmitted to their respective counties,”¹ and “the general principles of fees and costs discussed in reference to magistrates are applicable to municipal judges.”² Creating a centralized court would not affect these guidelines.

¹ South Carolina Bench Book for Magistrates and Municipal Court Judges, General B7a

² SC Bench Book for Magistrates and Municipal Court Judges, General B7b

Does a centralized court apply to both bench and jury trials?

Generally no, only bench trials and guilty please may be held in a centralized court. However, under certain circumstances some jury trials may be held in a central CDV court.

Can Municipal cases be tried in a Magistrates court?

Yes, a municipality may arrange to have its cases prosecuted in the Magistrates court. Since the magistrate would have territorial jurisdiction over the municipal court, those municipal cases could be tried in the magistrate court. However, any revenues created by fines imposed would be distributed to the County, rather than the Municipality. Rather than having its CDV cases disposed in Magistrates court, a Municipality may try all CDV cases arising from its jurisdiction in the municipal court and retain any revenue generated from those cases. By trying all CDV cases on a given date, a Municipality and all agencies involved would receive a similar benefit as if centralization had taken place.

How to Establish a Centralized CDV Court

If the Chief Magistrate of a county decides to create a centralized CDV court for that county, he or she simply needs to notify Court Administration, who complete and submit an Order to the Chief Justice to that effect (for example, please see attached Order for Horry County). That is the only formal action that needs to take place.

Following that submission, the court needs to notify law enforcement that all criminal domestic violence cases are going to be tried on a certain day(s) of each month, and that all defendants should be notified of that when charged.

And so for instance, let's say that CDV cases in Carolina County are tried on the second Thursday of each month. For the weeks prior to the second Thursday, each individual who is charged with criminal domestic violence should be instructed to appear on the upcoming second Thursday. Each defendant, once present in court on the second Thursday, is then given three choices: one, s/he may request a jury trial; two, s/he may request a bench trial, in which case the

trial would proceed immediately; or three, s/he may plead guilty, in which case the plea would immediately be considered.

Some counties have found it favorable to organize the docket by the arresting officers' schedules. For example, the defendants whose arresting officers are coming off of the third shift have their appearances first, allowing the officers to leave as soon as possible.

The most important aspect of a centralized court is the scheduled, regular meeting of the court that allows all interested parties to attend. Each county may need to make provisions and changes to accommodate its own particular needs.



The Supreme Court of South Carolina

ORDER

It appearing that the establishment of a centralized magistrate court for the hearing of criminal domestic violence cases in Horry County can be accomplished within the framework of the unified judicial system as an administrative matter, and

It further appearing that the establishment of a centralized magistrate court for the hearing of criminal domestic violence cases in Horry County will provide greater access to parties, witnesses, law enforcement officers, victims advocates, and prosecutors, and

The judges of the magistrate courts of South Carolina being a part of the uniform statewide judicial system and pursuant to the provisions of Article V, Section 4, South Carolina Constitution.

IT IS ORDERED that terms of court for criminal domestic violence cases be scheduled in the Centralized Magistrate Court for Criminal Domestic Violence Cases for Horry County. Terms of court shall be scheduled by the Chief Judge for Administrative Purposes of the Summary Courts in Horry County and shall be presided over by magistrates designated by the Chief Summary Court Judge in Horry County.

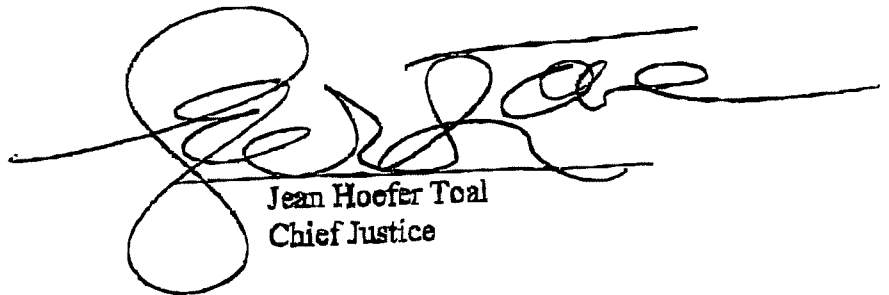
IT IS FURTHER ORDERED that all criminal domestic violence cases shall be scheduled in the central court, provided, that the Chief Summary Court Judge in Horry County may, upon a finding of good cause, order the transfer of a criminal domestic violence case to Horry County Central Jury Court, upon proper motion by the defendant or the State.

IT IS FURTHER ORDERED that the terms of the central court shall be held on the days of the week and at the times designated by the Chief Summary Court Judge in Horry County.

IT IS FURTHER ORDERED that the Chief Summary Court Judge in Horry County shall be responsible for an accounting of all fines, fees, penalties, forfeitures and all other monies collected in the Centralized Magistrate Court for Criminal Domestic Violence Cases for Horry County. All fees, fines, penalties and forfeitures imposed and collected in the central court must be forthwith turned over to the Treasurer of Horry County and reported as required by the Order of the Chief Justice.

IT IS FURTHER ORDERED that the Chief Summary Court Judge in Horry County shall supervise the Trial Court Administrator for Horry County and other personnel that may be employed for the central courts established pursuant to this Order.

The authority conferred on the Chief Summary Court Judge in Horry County by this Order shall become effective immediately and continue unless amended or revoked by Order of the Chief Justice.



Jean Hofer Toal
Chief Justice

August 17, 2006
Columbia, South Carolina