

2.1 WHERE, WHEN AND HOW DOMESTIC VIOLENCE COMPLAINTS ARE TO BE FILED

- 2.1.1 A victim of domestic violence must have access to the courts at all times. Law enforcement, Municipal and Superior Court staff must be advised that victims should never be turned away because of the inconvenience of arranging off-hours emergency relief.
- 2.1.2 A law enforcement officer responding to a domestic violence call must provide the victim with necessary assistance to file either a criminal or civil Complaint/TRO or both. Under no circumstances should an officer prevent or discourage a victim from seeking immediate temporary relief merely because the domestic violence occurs after regular business hours.
- 2.1.3 Special Provisions for persons under 18 years of age:
- A. A victim may be below the age of **18**.
 - B. The domestic violence defendant must be over the age of 18 or emancipated at the time of the offense. (See emancipated minor definition, Section 1.8, for criteria in determining whether a person is emancipated.)
 - C. A person under 18 years of age and not emancipated who commits an act of violence may not be a defendant in a civil domestic violence case but can be charged with specific acts of domestic violence (e.g., assault) under the Code of Juvenile Justice. The entry of pre or post-dispositional restraints can also be considered for use in the juvenile delinquency case.

2.2 APPLICATION FOR A TEMPORARY RESTRAINING ORDER (TRO)

- 2.2.1 A victim may file a domestic violence complaint:
- A. where the alleged act of domestic violence occurred;
 - B. where the defendant resides;
 - C. where the victim resides; or,
 - D. where the victim is sheltered or temporarily staying.
- 2.2.2 During Court hours for domestic violence matters (Monday through Friday, 8:30 a.m. to at least 3:30 p.m.):
- A. the victim should be transported or directed to the Family Part of Superior Court, provided the victim can arrive prior to 3:30 p.m.

- B. where transportation of the victim to the Superior Court is not feasible, the officer should contact the Family ~~Part~~, Domestic Violence Unit. There are occasions when a person seeking to file a domestic violence Complaint/TRO arrives too late in the day for it to be processed and heard during regular court hours. During the interim period between the Domestic Violence Unit's close of business and when the courthouse actually closes, victims shall not be turned away. Each county shall develop a procedure in such instances for either in-person or telephonic communication under *Rule 5:7A* between the victim and an on-site or emergent duty judge, so that the request for emergent relief can be handled without the necessity of the victim having to go to the local police station or the Municipal Court. (See section 4.4)

2.2.3 On weekends, holidays and weekdays after 3:30 p.m. and other times when the Superior Court is closed,

- A. A victim may sign the domestic violence complaint with a law enforcement agency as set forth in 2.2.1.
- B. The victim's complaint shall be processed promptly. Under no circumstances should the victim be advised to appear in the Superior Court, Family ~~Part~~ the next business day in order to apply for a TRO.
- C. If a TRO is denied by a Municipal Court judge, the denial and the Complaint/TRO must still be faxed or forwarded to the Family ~~Part~~ within 24 hours for an administrative dismissal. A victim whose Complaint/TRO has been dismissed in this manner is not barred from refile in the Family ~~Part~~ based on the same incident and receiving an emergency *ex parte* hearing *de novo*. Every denial of relief by a Municipal Court judge must so state, with specificity in the "Comments" portion of the TRO and the victim must be advised of the right to refile with the Superior Court, Family Part.

2.3 WHERE TO FILE A CRIMINAL COMPLAINT WITH AN ACCOMPANYING TRO APPLICATION AND COMPLAINT

2.3.1 When a victim is seeking a TRO, a companion criminal complaint may also be signed against the defendant in one of the following locations:

- A. where the alleged act of domestic violence occurred, or
- B. where the defendant resides, or
- C. where the victim resides, or
- D. where the victim is sheltered or temporarily staying.

- 2.3.2 The out-of-jurisdiction complaint (i.e., one taken not where the incident occurred) should be prepared on a blank CDR and the court accepting the complaint for filing shall have the authority to issue process and set bail as if the alleged offense had occurred in that jurisdiction. A “blank” CDR is one without the court’s name or municipality code in the caption.
- 2.3.3 The companion criminal complaint shall be forwarded to the jurisdiction where the offense is alleged to have occurred for investigation and prosecution.
- 2.3.4 A criminal complaint does not preclude the victim from filing a domestic violence complaint and seeking a **TRO**. A person may also file criminal charges without seeking a TRO.

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- 2.4.1 The victim may file a criminal complaint with the Municipal Court or police department where the alleged act occurred. See also Section 3.1 1.4.
- 2.4.2 If the police officer believes that no-contact provisions should be issued as a condition of bail, the officer should inform the court of the circumstances justifying such request when the criminal complaint is being processed and bail is about to be set. This section shall be checked off on the appropriate form. The officer should include in the domestic violence offense report the reasons for the request and the court’s disposition of the request. This order must be in writing consistent with *N.J.S.A. 2C:25-26*.