

GARDEN STATE CLE LESSON PLAN

A 2.5 CLE CREDIT COURSE

FREE DOWNLOAD LESSON PLAN AND EVALUTION

DOMESTIC VIOLENCE IN MUNICIPAL COURT

WITH

**HON. PAUL CATANESE (RET.)
PRESIDING JUDGE
MERCER COUNTY VICINAGE**

AND FEATURING

ROBERT RAMSEY, SENIOR INSTRUCTOR

Program Description

The correct handling of a domestic violence case is one of the most critically important responsibilities of a municipal court judge. This 2.5 [credit](#) CLE will provide you with in-depth instructions on how to get it right.

I. INTRODUCTION

- **Garden State CLE**
- **Panelists**
[Hon. Paul Catanese (Ret.),
Presiding Judge,
Mercer County Vicinage
and Robert Ramsey, Senior Instructor]
- **Scope of Topic**

II. THE COURT IS ALWAYS OPEN

- **Victims of domestic violence are entitled to the aid of the court no matter the day or hour**
- **It IS a part of the job and should be considered at the time of the appointment**

III. THE JOB ENTAILS EXACTLY WHAT?

- **N.J.S.A. 2C:25-18: Provides for access to emergent and long term relief to protect victims of domestic violence and encourages the broad application of the statute in the civil and criminal courts of the State**
- **DVs are near epidemic**
- **It is the job of the Court to protect the victims and assure justice**

IV. TEMPORARY RESTRAINING ORDERS

- **The Municipal Court is the “overtime court” for the Superior Court for DV matters/TROs after 3:30 PM and goes until morning when the Superior Court reopens**
- **Busy periods: Friday and Saturdays are busiest because DVs are often alcohol fueled**
- **Holidays, of course**
- **Family get togethers often provide the right formula for DVs to occur**
- **Super Bowl Sunday? At times, yes.**

V. JURISDICTION AND VENUE

- **Civil vs. Criminal jurisdiction**
- **In county and out-of-county occurrences**
- **“Shall arrest” situations arise when there is evidence of injury**
- **Judges and Clerks get statewide jurisdiction in DV matters per process developed by the Courts with the aid of the Presiding Judges and Committee**

VI. PREDICATE OFFENSES

- **They are listed in N.J.S.A. 2C:25-19, including, among others:**
 - i. Homicide**
 - ii. Assault offenses**
 - iii. Terroristic threats**
 - iv. Kidnapping**
 - v. Criminal restraint**
 - vi. False imprisonment**
 - vii. Lewdness**
 - viii. Burglary**
 - ix. Trespass**
 - x. Harassment**
 - xi. Stalking**

VII. VICTIM DEFINED

- **N.J.S.A. 2C:25-19 (d)**
- **Any person over 18**
- **Or an emancipated minor**
- **Subject to DV by spouse or former spouse**
- **Or a person that is a present or formerly living with the victim**
- **Child in common or anticipates a child if pregnant**
- **Those in a dating relationship**

VIII. EMANCIPATED MINOR

- **If ever married**
- **Pregnant**
- **Military**
- **As per Order of Superior Court**
- **NOT in the context of parental discipline per statutory design, possibly if the child were pregnant. But the relief is DISCRETIONARY for the Court**

IX. HOW EMERGENT RELIEF WORKS

- **Judge must swear the witness even if on the phone**
- **Police can testify if the victim is incapable by dint of the injury to the victim**
- **State v. Cassidy, 179 N.J. 150, 159-60, 843 A.2d 1132 (2004). Case involving a search warrant, Judge forgot to swear the witness and that created problems, big problems, for the State.**
- **Some vicinages allow for MC Judge Issuance of search warrant, about half of NJ's vicinages. DO THIS RIGHT the first time.**

- **Avoid complaints that the Jurist did not act properly and that evidence should be lost in the prosecution of the offense. Example re a 50 gun seizure incident to a DV arrest**

**X. IT'S A DARK AND DREARY NIGHT,
AND IT IS THE MIDDLE OF THE NIGHT,
THE PHONE RINGS.....,
NOW WHAT DOES THE JUDGE DO?**

- **Get the facts from the local/State police**
- **Talk to the victim**
- **Seek info re the parties, does their relationship meet the requirements of the DV Act**
- **Seek info re the statutory predicate acts to a DV Act Temporary Restraining Order**

XI. MODIFICATION OF BAIL CONDITIONS

- **Dismissal of charges doesn't impact how the matter proceeds in Municipal Court where an adequate protection in the form of the Municipal Prosecutor is present**
- **Bail changes are to made only by the Judge that set the bail in a Domestic Violence matter or another Judge that conferred with the Judge that set the bail**
- **Superior Court Judges are required to confer with the MC judge that set the bail**

XII. VICTIM NOTICE OF RELEASE OF THE DEFENDANT ON BAIL

- **Notice is an executive function**
- **Notice can be a condition of bail, subject to reasonable limits**
- **The DV form is confidential**

XIII.

- **No in-house restraining orders**
- **\$100 mandated DV Surcharge: often unknown to MC Judges or forgotten**

XIV. COLLATERAL CONSEQUENCES

- **Firearms ID card**
- **Immigration**
- **Forfeiture of Public Office**

XV. SENTENCING

- **Aggravating and mitigating factors of course**
- **Notice to Victim**
- **Get report from Prosecutor re: speaking with the Victim before sentencing**
- **Probation and alcohol counseling conditions**
- **Address temperament of the Defendant ONLY, not family counseling or with Victim or even victim separately**
- **AA is religious based and an inappropriate sentence in the probation context. Comparable programs are okay for sentencing by the Courts.**

XVI. ISOLATION OF THE VICTIM

- **Court responsibility**
- **Court staff or Police to monitor victim safety and their rights protected**
- **Some courts have victim waiting rooms. They are relatively rare.**
- **To avoid harassment and intimidation**

- **Courts can order that the parties leave the facility separately with time delays etc.**

XVII. TRIALS vs. PLEAS

- **Trials tend to be rare**
- **The Prosecutor is never too busy for a victim**
- **Victims need to know that they are protected by the system**
- **There is no more important case than a DV case**
- **60-day disposition rule needs to be flexed at times to accommodate the complexities and the nuances of these emotional cases**
- **A couple of New Jersey Assignment Judges are of the opinion that 60-days is enough, dismiss if not disposed of in 60-days by plea or trial**

XVIII. GENERAL ADVICE

- **Learn the law, learn the statute and apply the law to the facts. Take the time to do it the right way.**