ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

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TO 609-984-4228]

Directive # 09-10
**[Supersedes Directives
#16-01 and #02-06]**

MEMORANDUM

TO: **Assignment Judges**
Family Presiding Judges
Trial Court Administrators
Family Division Managers

FROM: **Glenn A. Grant, J.A.D.**

SUBJECT: **Standards for the Domestic Violence Hearing Officer Program**

DATE: **September 7, 2010**

This Directive reissues and incorporates in a single Directive the standards for the Domestic Violence Hearing Officer Program including the standards for both Domestic Violence Hearing Officers (DVHOs) and Backup Domestic Violence Hearing Officers. It supersedes Directive #16-01, *Family – Domestic Violence Hearing Officer Program Standards*, dated December 14, 2001 and Directive #2-06, *Standards for Backup Domestic Violence Hearing Officers*, dated January 30, 2006. It also incorporates two amendments approved by the Supreme Court in 2009 that are applicable to all DVHOs:

1. DVHOs and Backup DVHOs must print their names and sign and date all of their recommendations (DVHO Standard #2.A.8); and

2. DVHOs and Backup DVHOs are permitted to recommend modifications to custody arrangements and modification or suspension of parenting time orders at the Temporary Restraining Order hearing (DVHO Standard #5.G).

Questions concerning this Directive may be directed to Harry T. Cassidy, Assistant Director, Family Practice, at 609-984-4228.

G.A.G

c: Chief Justice Stuart Rabner
Hon. Thomas Dilts, J.S.C.
AOC Directors and Assistant Directors
Geraldine Washington, Chief, Family Practice
David Broselli, Assistant Chief, Family Practice
FV Team Leaders
Domestic Violence Hearing Officers
Backup Domestic Violence Hearing Officers
Gina G. Bellucci, Staff Attorney, Family Practice
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STANDARDS FOR THE DOMESTIC VIOLENCE HEARING OFFICER PROGRAM

PART ONE ~ DOMESTIC VIOLENCE HEARING OFFICER PROGRAM

The Supreme Court has adopted this set of Operating Standards for the Domestic Violence Hearing Officer ("DVHO") Program. The standards and the accompanying commentary were developed and recommended by the Conferences of Family Presiding Judges and Family Division Managers. The standards are applicable to the DVHO program as implemented in all vicinages.

I. Standards -- Domestic Violence Case Processing

Domestic violence case processing standards are set forth in the Domestic Violence Procedures Manual ("DVPM") jointly promulgated by the Supreme Court and the Attorney General of the State of New Jersey for use by judges, Judiciary staff and law enforcement officials throughout the State.

II. Standards -- DVHO Program

DVHO Standard # 1: Appointment

DVHOs shall be hired at the vicinage level in the same manner as all other Judiciary employees based upon the qualifications for the position adopted by the Department of Personnel and supplemented as set forth below. Prior to hearing any matter, all successful candidates for the DVHO position shall complete a standardized training curriculum approved by the Administrative Director. This training curriculum is administered by the AOC Family Practice Division.

Qualifications for the DVHO position are as follows:

(1) A bachelor's degree in a behavioral or social science; and (2) three years of experience in the area(s) of domestic violence or family crisis. A masters degree or admission to the New Jersey Bar and one year of experience in Family Law (which shall include work involving domestic violence) may be substituted for one year of experience.

DVHO job announcements should include in the "Note" section the following language: "Awareness of the dynamics of domestic violence and its impact upon victims, families, and abusers is helpful."

DVHO Standard #2: Duties and Responsibilities

A. Domestic Violence Hearing Officers conduct hearings on requests for Temporary Restraining Orders ("TROs"). In doing so, a DVHO shall:

1. **Review all related case files involving the parties;**
2. **Inform Plaintiff about her/his legal rights and options, and about available protective services, including shelter care;**
3. **Explain to Plaintiff the domestic violence legal process and procedures;**
4. **Explain to Plaintiff that appearance before the DVHO is voluntary, and that no adverse inference shall be drawn if Plaintiff seeks to appear before a judge instead of before a DVHO;**
5. **Take testimony and establish a record, including findings of fact concerning the basis for his/her recommendations;**
6. **Rule on the admissibility of evidence;**
7. **Draft a comprehensive, case-specific TRO, where appropriate;**
8. **Print her/his name on the TRO and sign and date the TRO;**
9. **Forward the recommended TRO for review and (possible) signature by a judge;**
10. **Make appropriate referrals to other agencies for assistance.**
11. **Inform Plaintiff of her/his right to a hearing *de novo* before a Superior Court Judge if the DVHO has recommended that a TRO not be granted.**

B. The DVHO will be expected to assume other similar duties in the Family Division when time allows. However, even in those counties in which conducting TRO hearings does not comprise the majority of the DVHO's time, such hearings shall take precedence over other duties assigned to the DVHO. Any other duties assigned to the DVHO must be consistent with the skills, abilities, and status of the DVHO position.

DVHO Standard # 3: Management Structure

A. The DVHO shall report to the Assistant Family Division Manager. For legal consultation or case issues, the DVHO shall have access to the Family Division Presiding Judge or a judge designated by the Presiding Judge.

B. The DVHO should participate in relevant meetings and discussions in the vicinage held by the Presiding Judge, Division Manager, and Assistant Division Manager(s).

C. The DVHO should participate in the County Domestic Violence Working Group and in other intra-court and interagency committees and groups at the state and local levels that are identified as appropriate by Family Division Management (Presiding Judge, Family Division Manager or Assistant Family Division Manager).

D. The DVHO should attend statewide DVHO meetings, which are to be called by the Family Division Manager who is designated to chair meetings of the DVHOs, and may also attend other training events identified and approved by Family Division Management and the Administrative Office of the Courts.

The regular statewide meetings of DVHOs will be scheduled at the direction of the Chair of the Conference of Family Presiding Judges, and will be chaired by the designated Family Division Manager. The Conference of Family Presiding Judges expects that all DVHOs will be encouraged and permitted to attend all such statewide meetings. At the local level, the DVHO is expected to be an active member of the County Domestic Violence Working Group in order to contribute his/her expertise to the resolution of local and statewide issues related to the implementation of the Prevention of Domestic Violence Act.

DVHO Standard #4: Facilities and Staff Support

A. The DVHO should conduct the hearing in a hearing room specifically set up and designed to accommodate domestic violence proceedings.

Hearing rooms shall be equipped with a desk/bench for the DVHO, chairs for the victim and witnesses, space for support staff and security, phone, and personal computer with access to FACTS, PROMIS/GAVEL, ACS and NJKiDS, as well probation, warrant and jail information and the Judiciary's InfoNet.

B. DVHOs shall be provided appropriate security, consistent with and as reflected in the vicinage's security plan.

C. All hearings conducted by the DVHO shall be recorded and a log of such hearings shall be maintained. A court staff member should be available during hearings to operate the recording equipment, maintain the logs, take files to the judge for review and signature, and, when necessary, escort the victim to a courtroom or back to Intake.

D. DVHOs shall be provided with a current version of the Domestic Violence Procedures Manual; DVHOs shall also have regular access to the following:

1. New Jersey Rules of Court;

2. New Jersey Rules of Evidence;

3. New Jersey Code of Criminal Justice;

4. New Jersey Law Journal; and

5. Family Division slip opinions, as well as any other slip opinions relating to domestic violence.

<u>DVHO Standard #5: Jurisdiction</u>

A. DVHOs shall only hear requests for TROs made at the Superior Court, Family Division, during regular court hours. Appearance before the DVHO is voluntary and a plaintiff may elect to appear before a judge instead. No adverse inferences shall be drawn from a plaintiff's election to appear before a judge instead of a DVHO.

B. The DVHO shall be governed by the New Jersey Prevention of Domestic Violence Act, New Jersey Court Rule 5:7A, the Domestic Violence Procedures Manual, and these Standards in making recommendations regarding the issuance of a TRO and its specific provisions. Additionally, the DVHO shall review all related case files involving the parties before making any recommendation in that particular matter.

C. DVHOs may draft and recommend Amended TROs where only the Plaintiff appears and none of the exclusions listed in Section D below apply.

D. DVHOs shall not hear a particular matter if any of the following circumstances exist:

1. **When there are cross-complaints, complex issues or circumstances, or pending or recently resolved cases involving the parties that make the matter "complex"; (this determination of "complexity" by the Hearing Officer is subject to the oversight of the Presiding Judge or Lead Domestic Violence Judge);**

2. **Where a party has submitted an application for dismissal;**

3. **When both parties are present;**

4. **When a TRO has been denied by the Municipal Court, and the Plaintiff appears at the Family Division for a hearing *de novo*;**

5. **When a conflict of interest or the appearance of impropriety would result.**

E. Other than the matters set forth in Section D above, all cases shall be brought to the attention of the DVHO, who can make referrals to the designated judge as necessary and appropriate.

F. The following provisions are applicable to cases involving the use or threatened use of weapons:

1. **When a domestic violence complaint is taken in a matter that involves the use or threatened use of a weapon, or where the defendant possesses or has access to a firearm or other weapon described in N.J.S.A. 2C:39-1r, this information should be noted on the complaint and transmittal form that will be attached to the other paperwork forwarded to the DVHO;**

2. **If the DVHO finds that good cause exists for the issuance of a TRO, the DVHO should proceed to review and check off those restraints and reliefs being recommended;**

3. **During the hearing, when the DVHO reaches the section of the TRO prohibiting weapons possession, and after having determined that there are weapons to be seized, the DVHO should ask for as detailed a description as possible concerning the type and number of weapons, and their specific location(s);**

4. **If the DVHO determines that there is probable cause for seizure, the DVHO should note this on the record and then should:**

    a. **Complete the weapons seizure affidavit form (contained in the Domestic Violence Procedures Manual) based on**

Plaintiff's testimony, including details about the weapon(s) to be seized and the likely location(s) of the weapon(s), as well as the basis for Plaintiff's belief that such weapons are in Defendant's possession or are accessible to Defendant;

b. Review the contents of the affidavit with Plaintiff on the record and have Plaintiff sign the affidavit. The DVHO should witness Plaintiff's signature;

c. Complete the warrant portion of the TRO with specificity regarding the weapon(s), location(s) of same, and any other instructions to law enforcement;

d. Once the TRO hearing is completed, the recommended TRO, along with the Weapons Seizure Affidavit, should be presented to the appropriate judge for review (including specific review of the affidavit and warrant section of the TRO) and potential signature. The probable cause determination regarding weapons seizure should be placed on the record, along with the docket number and other identifying case information;

e. If the judge does not concur with the TRO as recommended, or wishes to take testimony directly from the victim, or if the DVHO finds no basis for the issuance of the TRO or a lack of probable cause for weapons seizure and Plaintiff requests a hearing *de novo* on either determination, the case should be handled as an excluded case and forwarded to the judge for a hearing *de novo*.

G. DVHOs are permitted to recommend modifications to custody arrangements and modification or suspension of parenting time orders at the Temporary Restraining Order hearing.

H. All recommendations made by the DVHO shall be reviewed by a Family Division Judge or other Superior Court Judge, as follows:

1. The Family Presiding Judge or a judge designated by the Presiding Judge immediately shall review all TROs recommended by the DVHO. If the judge finds the recommended TRO to be appropriate, s/he should sign the TRO.

2. A plaintiff who does not agree with the findings and/or recommendations of the DVHO shall be entitled to an

immediate hearing *de novo* conducted by the Family Presiding Judge or a designated Family Division judge.

3. **Copies of the signed TRO shall be provided to Plaintiff by the court or court staff before Plaintiff leaves the courthouse. Defendant shall be served a copy pursuant to N.J.S.A. 2C:25-17 et seq.**

The Domestic Violence Procedures Manual sets forth the standard regarding the maximum amount of time that an individual should have to wait for a hearing on her/his domestic violence complaint. Every effort should be made for cases to be heard within one hour after the time the complaint was completed.

PART TWO ~ BACKUP DOMESTIC VIOLENCE HEARING OFFICER PROGRAM

These Standards for Backup DVHOs authorize vicinages to designate an existing staff person as a Backup DVHO to function temporarily as a DVHO on a collateral, part-time basis when the DVHO is absent or otherwise unavailable. Any such designations are to be made by the Assignment Judge, with the Backup DVHO first to have completed the same training required of full-time DVHOs (as is more fully explained in the DVHO Standards & Backup DVHO Standard # 4).

The use of a Backup DVHO may obviate the need for a judge to hear requests for a domestic violence restraining order when the DVHO is absent and thus provide more prompt responses to plaintiffs in these cases. Vicinages are not required to make such designations, but are permitted to do so.

Backup DVHO Standard # 1: Designation

Backup DVHOs shall be designated by the Assignment Judge or his/her designee following the candidate's completion of the training and approval process outlined herein. The candidate must be either an Administrative Specialist 4 or an Assistant Family Division Manager.

Backup DVHO Standard #2: Duties and Responsibilities

The duties and responsibilities of the Backup DVHO shall be the same as those of the DVHO as set forth in DVHO Standard #2.

Backup DVHO Standard #3: Management Structure

The Backup DVHO shall report to the Assistant Family Division Manager, and for legal consultation or case issues shall have access to the Family Presiding Judge or another judge designated by the Presiding Judge. If the Backup DVHO

is an Assistant Family Division Manager, he or she shall report to the Family Division Manager.

Backup DVHO Standard #4: Training Curriculum

As provided in DVHO Standard #1, all Backup DVHOs, prior to hearing any matter, shall complete the standardized training curriculum approved by the Administrative Director, which is administered by the AOC Family Practice Division.

A prospective Backup DVHO shall be present and observe DVHO proceedings on requests for TROs with the vicinage mentor DVHO at a minimum of 30% of the county's monthly DV caseload for the first month of training and will observe DVHO proceedings that involve weapons at a minimum of 20% of the county's monthly caseload of such cases.

The Backup DVHO candidate shall also observe requests for TROs and FROs heard by vicinage Family Part Judges at a minimum of two days in his/her first month of training.

The Backup DVHO shall also observe an existing DVHO in another vicinage for two days during this period.

The length of time a candidate for the Backup DVHO position remains in training shall be determined in consultation with the vicinage's Family Presiding Judge, the domestic violence judge that the candidate has observed, the Family Division Manager and the AOC Family Practice Division, and will depend upon the following:

a. Prior Domestic Violence training and experience;

b. Report from the Family Part Presiding Judge;

c. Report from the domestic violence judge that the candidate has observed ;

d. Report from the mentor DVHO;

e. Report from vicinage DVHO.

After consultation with vicinage management and reports from the mentor DVHO and any other DVHO who may have observed the Backup DVHO, a determination as to that individual's ability to conduct hearings independently will be made. If the determination is positive, the Backup DVHO may proceed to hear requests for TROs immediately upon the designation by the Assignment Judge or his/her designee.

Should the newly designated Backup DVHO require additional training based on the reports received, that training will be organized by AOC Family Practice Division for a length of time determined in consultation with the vicinage and designated training judges.

Backup DVHO Standard #5: Conducting Hearings Under Supervision

When all parties agree that the Backup DVHO is ready to conduct hearings under the supervision of the existing DVHO, that additional training shall consist of the conduct of no less than 10 cases under the supervision of the DVHO.

Backup DVHO Standard #6: Conducting Hearings

In order to keep their skills current, the Backup DVHOs shall conduct (at a minimum) 10% of the monthly hearings of the county where they are assigned on an ongoing basis. The schedule shall be determined by the Family Division Manager in relation to the other duties of the Backup DVHO and the volume of domestic violence cases in the vicinage.

Backup DVHO Standard # 7: Compliance with Existing DVHO Standards

Backup DVHOs shall operate within the following existing DVHO Standards:

a. Standard # 2 - Duties and Responsibilities
b. Standard # 4 - Facilities and Staff Support
c. Standard # 5 - Jurisdiction