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Administrative Office of the Courts

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Directive #17-20

TO: **Assignment Judges**
Trial Court Administrators

FROM: **Glenn A. Grant, J.A.D.** GAG SY SDB

RE: **Criminal and Family - Co-Occurring Orders Involving No-Contact Release Conditions and Domestic Violence or Custody Matters**

DATE: **May 22, 2020**

Ensuring the safety of victims and victims' families is of paramount importance to the Judiciary. This Directive promulgates the process to ensure communication between Divisions where a defendant has a no-contact order in the Criminal Division and a concurrent domestic violence or custody matter in the Family Division.

The Prevention of Domestic Violence Act (PDVA) mandates that courts must "protect victims of violence that occurs in a family or family-like setting by providing access to both emergent and long-term civil and criminal remedies and sanctions, and by ordering those remedies and sanctions that are available to assure the safety of the victims and the public." N.J.S.A. 2C:25-18. Parties involved in a matter that includes domestic violence may seek resolution in the Family Division while a criminal case may be simultaneously brought against one of those parties. Similarly, parties involved in a domestic violence matter (FV docket) or a domestic violence contempt (FO docket) may have a corresponding child protection (FN docket) or child custody (FD docket) matter. Judges hearing any of these matters must be aware of any other court matters to ensure that orders are enforceable and not contradictory.

In the Criminal Division, a defendant may be released pursuant to the Criminal Justice Reform Act (CJRA) with conditions of no-contact with a victim, minor children in common or not in common, or other family members or friends of the victim. Additionally, if sought by the victim, the Family judge may separately enter a temporary restraining order (TRO) and subsequently a final

restraining order (FRO) including no-contact provisions. The Family court also may order visitation in an FN or FD matter. The absence of clear communication in these concurrent matters can negatively affect defendants, victims, families, and the courts. It potentially causes defendants to violate other orders inadvertently and creates confusion with victims who are unsure what protections are in place. Judicial fairness dictates that there must be clear and direct instruction in the order restricting contact among parties, especially when a defendant is subject to more than one protection order involving the same victim.

To ensure clear communication, the court shall ensure the following items are addressed before entering, modifying, or vacating a no-contact order:

1. Court staff has checked available systems, including the Party Court History (PCH) and the CIC-Court Document Search, for co-occurring matters with the parties, and informed the judge of the results of those searches.
2. The court is to consider any no-contact conditions, TRO/FRO, or visitation ordered by other courts.
3. The court is to consider all other relevant information.

If the court determines modification is appropriate, it must notify the other court that issued the existing protection order of its intended order. Where there is a conflict regarding contact with a child, the Family order controls. See R. 3:26-1(b). The issuing court will have the opportunity to reconsider the prior existing condition that is in place. Communication between the Criminal Division and the Family Division will allow the issuing court to clearly articulate to the defendant, as well as to the victim, what conditions remain in place.

cc: Chief Justice Stuart Rabner
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