

Family Offenses in Municipal Court

1. What type of cases are family related cases are filed in Municipal Court?

The Municipal Court plays a vital role in domestic violence matters. The Municipal Court is involved in four aspects of domestic violence cases. First, Municipal Court judges often issue temporary restraining orders in domestic violence cases at hours when the Family Courts are closed. Second, the Municipal Court conducts first appearances and sets bail for people who have been charged with all types of domestic violence offenses. Third, the Municipal Court hears the underlying predicate offense alleged in the domestic violence complaint. Fourth, Municipal Courts conduct first appearances for people who have been charged with violating domestic violence restraining orders.

2. When does a Municipal Court issue a temporary restraining order?

The doors of the court house are never closed to victims of domestic violence. During the hours when the Family Court is closed, the police will investigate victims' complaints will typically contact a Municipal Court judge on an emergent basis for the purpose of having a restraining order granted. The judge will then hear testimony and make a determination whether or not to issue a temporary restraining order.

3. How is a Municipal Court involved with a domestic violence case?

The Municipal Court also hears many of the offenses that constitute acts of domestic violence. There are six underlying offenses of domestic violence where are heard in Municipal Court; simple assault, false imprisonment, lewdness, criminal mischief, criminal trespass, and harassment. The Municipal Court has jurisdiction to hear all of these offenses and to judge them. It is important to note that in most of municipal DV case there is a parallel Family Court case that is also pending. The Family Court case has nothing to do with the outcome of the Municipal Court case. The burdens of proof are also different in each case. The burden of proof in the Family Court DV case is proof beyond a preponderance of the evidence. Meanwhile, the charges in the Municipal Court must be proved beyond a reasonable doubt.

4. What is the best strategy to defend against a DV charge in Municipal Court?

The best strategy to defend against a domestic violence case in the Municipal Court is to request that the case be "frozen" for a period of time. The formal name for this is called an "administrative hold." In most DV cases the defendant will attend

counseling or anger management while the hold is in place. Once the DV case is reactivated then the judge could dismiss the case as long as the victim consents, and there are no more incidents of domestic violence.

5. What type of sentence can the court impose for a defendant who is convicted of domestic violence?

Domestic violence cases are the subject of a great deal of attention in the Municipal Court. In most cases the parties are able to resolve their dispute through the Family Court DV case. Thereafter, in many cases the parties agree to dismiss the Municipal Court DV case after the County case is disposed of. However, there are still cases when a person is convicted of a DV charge in the Municipal Court. A Municipal Court judge has a wide range of discretion in sentencing a defendant convicted of an act of domestic violence. The court could restrict the defendant's ability to have contact with the victim as a condition of the sentence. Additionally, the court may also require the defendant to attend professional counseling or anger management as a condition of the sentence. Finally, the court may also require the defendant to provide written documentation of attending of the anger management or counseling.

6. What are the collateral consequences of being convicted for an act of domestic violence?

There are many important collateral consequences of being convicted of domestic violence. First, there is a federal statute that makes it illegal for any person who has been convicted of domestic violence to possess a firearm. Therefore, if you are a police officer or in the military then a DV conviction could "nuke" your career and your ability to earn a living.

Additionally, a person who has been convicted of an act of domestic violence involving a simple assault may no longer possess or purchase firearms.

Finally, in addition to any other fine or penalty imposed in a domestic violence case in municipal court, the judge must also impose a \$100 surcharge upon all convicted defendants.