

A GUIDE TO PROTECTION ORDERS, THE COURT AND COMMUNITY RESOURCES

What are Protection Orders?

A Protection Order is issued by a Magistrate or a Judge and it orders a Defendant to stay away from you. The Defendant may be ordered to stay away from your residence, workplace and/or school. If the Defendant violates the Protection Order, a new charge of Violation of a Protection Order may be filed and the Defendant could be arrested.

Although a Magistrate or Judge may issue a Protection Order, it does not guarantee your safety. It is important for you to be very careful and take steps to ensure your safety as much as possible.

The Ohio Revised Code Sections 2919.27 and 3113.31 provide that Protection Orders issued anywhere in the State of Ohio are enforceable throughout the state if they are current and valid. Comparable Protection Orders issued in other states may also be valid in Ohio.

Are all Protection Orders the same?

No. There are four different types of protection orders.

In Criminal cases, the Municipal Court may issue a Domestic Violence Temporary Protection Order (DVTPO) or a Criminal Protection Order (CRPO) depending on the type of charge and your relationship to the Defendant.

In Civil cases, Domestic Relations Court issues Civil Protection Orders (CPO) if you are a family or household member of the Defendant.

In Stalking cases, the Court of Common Pleas may issue a Civil Stalking or Sexually Oriented Offense Protection Order (SSOPO).

What is a Civil Protection Order (CPO)?

A CPO is issued by Domestic Relations Court to protect Victims of Domestic Violence. A CPO is intended to prevent further Domestic Violence. A CPO can order someone who is abusive to do or not do certain things in the future.

You should consider requesting a CPO, even if you have a DVTPO from a criminal court because a CPO can last for a longer period of time. Some victims choose to wait until the criminal case is almost over and then request a CPO to extend the amount of time they have a protection order in place.

A Petition for a Civil Protection Order (CPO) can be filed with Domestic Relations Court. You may want to look at the Cuyahoga County website to see if you qualify for a Civil Protection Order or contact a private attorney or Legal Aid. You do not have to be getting a divorce in order to ask for a CPO. If you have already filed for a divorce, you may have received a Temporary Restraining Order which is a different type of order. The Police cannot make an arrest on this type of order.

What is a Civil Stalking or Sexually Oriented Offense Protection Order?

A SSOOPO is issued by the Cuyahoga County Court of Common Pleas to protect victims of stalking. It orders the stalker to end their behavior.

Who can get a Criminal Protection Order?

If you are not considered a family or household member under Ohio Revised Code Section 2919.25, then you may request a Protection Order if you are the victim in any of the following types of cases: Felonious Assault, Aggravated Assault, Assault, Aggravated Menacing, Menacing by Stalking, Menacing and/or Aggravated Trespass.

If you are considered a family or household member under Ohio Revised Code Section 2919.25, then you may request a Protection Order if you were the victim of an offense of violence, as defined in the Ohio Revised Code. Offenses of violence include but are not limited to the following: Domestic Violence, Felonious Assault, Aggravated Assault, Assault, Menacing by Stalking, Aggravated Trespass, Criminal Damaging, Criminal Mischief, Burglary, Child Endangering.

How do I get a Criminal Protection Order?

A criminal charge must be filed against the Defendant. The crime must be specified by the Ohio Revised Code. You must be the Victim of the crime. Your relationship with the Defendant must comply with the law.

If the Police file a charge, then they will advise you to appear at the Parma Justice Center, 5555 Powers Blvd., Parma, Ohio 44129 the next business day for the Protection Order Hearing. If you are not sure if you are required to appear, please contact the Parma Prosecutor's Office at 440-887-7400 ext. 4.

NOTE:

You do not need to appear for the Arraignment/Protection Order Hearing if you are not requesting a Protection Order. If you are requesting a Protection Order, you need to appear at the Parma Prosecutor's Office in the Parma Justice Center at 9:30 a.m. the next business day, or

the next business day after the Defendant is picked up or turns themselves in on a warrant (depending on the circumstances in your case) prior to attending Court for the Protection Order Hearing.

Who are considered family and household members?

The following MUST BE LIVING WITH, OR HAVE LIVED WITH, THE OFFENDER:

Spouse, Former Spouse, Persons living together as spouses or otherwise cohabiting (Persons living as spouses must have lived with the offender within five years prior to the incident unless the victim is the natural parent of the offender's child), Parents, children or other persons related by blood or marriage who are living or have lived with the offender, Persons who have a child(ren) together do not have to have lived together in order to qualify under this statute, Other types of relationships not mentioned above may be covered under this statute, but they must be examined on a case by case basis.

What Court should I use?

You do not have to choose between filing a Complaint in a Criminal Court and filing a Petition in Domestic Relations Court. If you have been abused, you may file in either or both Courts.

How long does the order last?

The Criminal Protection Order is good only as long as the related charge is pending. When the case is resolved, the order expires.

A Civil Protection Order or Civil Stalking Protection Order can last up to five years and possibly be renewed for an additional five years.

Can I get a Criminal Protection Order any time?

No. In order to get a Criminal Protection Order, one of the charges mentioned in Who can get a Criminal Protection Order? must be filed against the Defendant. Protection Orders are usually granted at the Arraignment/Protection Order Hearing, however you can speak with the Parma Prosecutor if you feel you need one while the case is going on.

Why do I have to come to the Arraignment/Protection Order Hearing?

In order to get the Criminal Protection Order, you need to be present at the Arraignment/Protection Order Hearing. Typically, a hearing must be held to allow the Magistrate or Judge and the Defendant's Attorney to hear from you about what happened and why you want the protection order.

What will happen at the Arraignment/Protection Order Hearing?

You will be asked to stand in front of the Magistrate or Judge, raise your right hand and swear that your statements are true. The Magistrate or Judge, Prosecutor and/or Defendant's Attorney may ask you questions. Answer all questions briefly and honestly. The Magistrate or Judge wants to hear what happened during the incident and why you want a protection order. Be aware that any information you give under oath can and may be used by the Defendant's Attorney.

What is bond?

Bond is intended to ensure the Defendant's return to Court, it is not a punishment for the incident. If the Defendant has a history of not showing up for Court, or if there are previous convictions for criminal acts, or if the Defendant is charged with a felony crime such as Murder or Rape, the Judge may set a high bond.

What kind of bond will be set in my case?

The Magistrate or Judge takes many different things into consideration when setting bond. There are several types of bond: Recognizance/Unsecured Appearance Bond, allows the Defendant to get out of jail on his/her signature, Appearance Bond, the Defendant must give the Court 10% of the bond amount plus a court fee before being released, a Cash/Surety Bond, Defendant must pay the entire bond amount in cash or hire a bail bondsman. The Magistrate or Judge will take into consideration facts such as whether the Defendant has a job, has been convicted of a crime of violence against a family member, has disobeyed protection orders in the past, the extent of your injuries and other information.

Can the Magistrate or Judge include my child(ren) on the Criminal Protection Order?

Usually, children are not included on the Protection Order unless a charge was filed on behalf of the child. Custody of children is decided by the Domestic Relations or Juvenile Court, not Criminal Court.

If I obtain a Protection Order from the Court, does that mean the Defendant has been found guilty?

No. The issuance of a Protection Order does not mean that the Defendant has been found guilty. The Prosecutor must still prove the case "beyond a reasonable doubt" at Trial. You must take steps to preserve your evidence for Trial. It is very important to remember any witnesses and evidence that may help prosecute your case. Be sure to let the Victims' Advocate or Prosecutor know if there is additional evidence.

What should I do if there is a violation of the Protection Order?

The Violation of a Protection Order is a criminal offense in addition to any criminal charges already filed. If the Defendant violates the Protection Order or the protective provision of the CPO/SSOOPO in any way, call the Police. DO NOT ATTEMPT TO REASON OR ARGUE WITH THE DEFENDANT. GET YOURSELF TO SAFETY. When the Police arrive, show them a copy of your Protection Order. The police will want to confirm the validity of the Protection Order. Ask the Police to make a report regarding the Protection Order violation (even if the officer does not make an arrest). Also, write down the officer's name and badge number so that the Prosecutor's Office can contact the officer if necessary. If the Police do not file the Violation of Protection Order charge, you should contact the Prosecutor's Office and speak with the Victims' Advocate.

What should I do about pressure from friends, family, the Defendant or the Defendant's Attorney?

When a criminal charge is filed, a lot of different things can happen. You may receive advice from friends and family, calls or visits from the Defendant, calls from the Attorney for the Defendant, etc. Regardless of who you speak to, remember that the Prosecutor represents the state and your interest. If any person threatens or pressures you to ask for a dismissal or just not to show up, please tell the Victims' Advocate or the Prosecutor immediately. Make sure when speaking with any person who identifies himself or herself as an attorney, you get their name and phone number. If anyone calls saying they are from the Prosecutor's Office, also get their name.

What do I do if the Defendant's Attorney contacts me?

You are under no obligation to discuss the case with anyone other than a representative of the Prosecutor's Office. You may be contacted by the Defendant's Attorney regarding dropping charges. You may talk to the Attorney but you do not have to. While they may be very understanding and friendly, they are working for the Defendant. Be careful what you say. Don't say anything you wouldn't want heard on the witness stand. Before making any decision you need to speak to the Prosecutor for his/her advice regarding the outcome of the case.

What should I do about phone calls?

If the Defendant is in jail, annoying calls from the jail should be reported to the Corrections Department and the Prosecutor's Office.

Telephone calls made by the Defendant's friends or family members to you or your family should be reported to the Prosecutor's Office. Under certain circumstances, there may be additional charges.

Will I have to come back to Court?

You may have several Court appearances before the case is finally over. You will probably be subpoenaed to appear in Court for the Trial. After the Arraignment, there is usually a Pretrial Hearing scheduled. This hearing gives the Prosecutor a chance to review your case, discuss it with the Defendant's Attorney and determine whether the case should be scheduled for Trial. There may be more than one Pretrial. After all Pretrial issues are resolved, the case is usually set for a Jury Trial or a Bench Trial. Again, there may be more than one scheduled date. On the day of a Jury or Bench Trial, the Prosecutor is only able to take one case to Trial and it must be the oldest case. If your case is not the oldest, then it may be rescheduled.

We understand that coming back to Court is inconvenient. We ask for your cooperation. Please communicate with the Victims' Advocate and the Prosecutor regarding whether you can be placed on call. Unfortunately, it is not possible to schedule court dates around your work schedule, vacation, etc.

How will I know when to come back to Court?

You will receive a Notice of Proceedings in the mail regarding the court dates. You are not required to appear when you receive a Notice of Proceedings. If you receive a Subpoena, it is a court order and you are required to appear in Court. If you have any questions, please call the Prosecutor's Office and speak with the Victims' Advocate or the Prosecutor.

NOTE: Please make sure the Prosecutor's Office has your current address and phone number. If you move or are staying with friends or family, they need the address. Make sure you can safely get your mail at the address you give them.

What if I miss work?

If you miss work due to a subpoena to appear in Court, the law states that your employer cannot punish you. Specifically, no employer shall discharge, discipline or otherwise retaliate against a victim or a member of the victim's family for participation, at the prosecutor's request, in a criminal proceeding. Any employer who violates this section is in contempt of court. Your employer is not required to pay you for the time you are absent from work. Your Victims' Advocate can provide you with a work/school excuse if needed. Please make the Prosecutor's Office aware if you are having problems with your employer.

What does my subpoena mean?

The subpoena is a court order requiring you to appear in Court. If you are subpoenaed to appear in Court and do not appear, it makes it more difficult for the prosecution to prove the case. In addition, the Court may hold you in contempt of court. It is very important that you come to court on time.

What can happen to the defendant?

Misdemeanor charges are handled in Municipal Court. Depending on the degree of the misdemeanor, the maximum sentence will vary. The following are the degrees of misdemeanors and the maximum penalties.

Misdemeanor 1 (M1) 6 months maximum confinement, \$1,000.00 maximum fine

Misdemeanor 2 (M2) 90 days maximum confinement, \$750.00 maximum fine

Misdemeanor 3 (M3) 60 days maximum confinement, \$500.00 maximum fine

Misdemeanor 4 (M4) 30 days maximum confinement, \$250.00 maximum fine

Minor Misdemeanor (MM) No confinement, \$150.00 maximum fine

Despite what you may hear about the Defendant going to jail or losing his/her job, please remember that jail is only one option. It is not the only option. The Probation Department may refer the Defendant for drug and alcohol counseling or anger management counseling.

Can the Court order the Defendant to get counseling?

Yes. The Court may be agreeable to placing the Defendant on probation and ordering him/her to attend drug/alcohol/anger management counseling. Please speak to the Prosecutor's Office about your request for counseling. This will not happen at the Arraignment/Protection Order Hearing. Once the defendant has been found guilty and put on probation then the counseling may be ordered.

Can the Court order the Defendant to pay bills, child support, etc?

No. This type of order is obtained in Domestic Relations or Juvenile Court.

It is not unheard of for the Defendant to have utility services in their name cut off as a means of pressuring you. You can avoid this by having the utility companies place the services in your name. If you have a Criminal Protection Order, the Defendant is not allowed to turn off your utilities. If this happens, it could be a Violation of the Protection Order.

How do I get paid back for any damages such as furniture, hospital bills, etc.?

Payment for damages is known as restitution. Restitution may be handled through the Probation Department if the Magistrate or Judge orders Restitution or through the Crime Victim Compensation Fund or Small Claims Court. If you have any questions, please speak with the Prosecutor's Office.

What if I want to drop the charge?

First of all, please be aware of the fact that you are a witness for the prosecution. Even though you are the person who suffered as a result of the crime, the case is "State of Ohio or City of Parma vs. (Name of Defendant)." The Prosecutor is responsible for making decisions about all cases.

THE CITY PROSECUTOR'S OFFICE DOES NOT DISMISS CHARGES SOLELY UPON YOUR REQUEST. This doesn't mean that they don't need your input, but it does mean that either the Prosecutor or the Magistrate or Judge will make the final decision about the case.

What about the Defendant's property and clothes?

Generally, the Magistrate or Judge will ask if the Defendant has clothing at your place of residence. If so, they may tell the Defendant to contact the police, who will escort the Defendant to your residence and wait while he/she gets clothing and personal items. This is not an opportunity for the Defendant to move furniture.

What happens if we run into each other in a public place?

If you and the Defendant see each other in a public place, we recommend that you do not confront him/her. If the Defendant doesn't leave, then you should leave with someone, or call someone to be with you. If you are approached by the Defendant, or are in fear of your safety, call the police.

If your situation changes during the case, whether you resume your relationship with the Defendant, move, change jobs or any other significant change, please contact the Prosecutor's Office to notify them.

IMPORTANT – FOR YOUR SAFETY WE RECOMMEND THAT YOU:

Have absolutely no contact with the Defendant until the case is over.

Not go where the Defendant is staying.

Not let the Defendant into your residence.

Not telephone the Defendant.

Not try to persuade the Defendant to violate the protection order.

REMEMBER:

FAILURE TO APPEAR FOR COURT WHEN SUBPOENAED MAY BE PUNISHABLE BY A CONTEMPT OF COURT.

YOU MAY BE THE PERSON ASSAULTED/THREATENED (THE VICTIM) BUT THE STATE OF OHIO'S LAWS WERE VIOLATED. THEREFORE, THE PROSECUTOR IS RESPONSIBLE FOR MAKING THE DECISIONS ABOUT ALL CASES.

YOUR SAFETY IS IMPORTANT AND YOU HAVE A RIGHT TO BE SAFE!

City of Parma Prosecutor's Office	440-887-7400 ext. 4
Victim's Advocate – (Sherry M. Purge)	440-887-7400 ext. 4
Journey Center for Safety and Healing	216-391-HELP (24 hour hotline)
Legal Aid Society of Cleveland	216-687-1900
Police (Emergency)	911
Parma Police (Non-Emergency)	440-885-1234/440-887-7300

SAFETY HINTS

Please think about a personal safety plan. You have the right to be safe and free from harm. Your safety is important. The most important thing for you is to protect yourself and your children.

You are not responsible for your partner's behavior. You cannot control or change your partner's behavior.

Plan now for someplace to go if your partner threatens you or makes you feel unsafe.

The following are some suggestions that may help you during this difficult time:

Place your own safety above your possessions or your pride.

If you are afraid your partner might hurt you, consider the following:

Leave and go someplace safe. Do not wait until your partner hurts you.

Keep near an exit so you can get away.

Do not confront or challenge your partner if they are intoxicated, on drugs or may become violent.

If your partner does hurt you, run out the door and yell Help! Call the Police! Call the Police yourself if you can or teach your children to call the police.

Develop a safety plan. This requires some thought. Try to set aside some cash, extra clothing, extra keys for house and vehicles and important documents. If you need to leave in a hurry, think about where you can keep these things and get them safely (perhaps a friend, neighbor or relative's house). Think about where you would go for help. How will you get there? What plans could you make for your children?

Make sure you have a copy of your Protection Order with you at all times.

Keep your doors and windows locked. Change your door locks.

Put sturdy sticks in windows and sliding glass doors.

Alert neighbors to call the police if they see the Defendant at your home.

Have someone stay with you if possible.

Don't go places where you think the Defendant may be.

Don't go out alone.

Remember that witnesses are very important. Be around people whenever possible.

Consider changing your phone number and having it unlisted.

If you have any questions, please contact the Parma Prosecutor's Office at 440-887-7400 ext. 4.

UNDERSTANDING THE COURT PROCESS

1. ARRAIGNMENT COURT:

- A. Offender enters a plea (almost always a "Not Guilty" at this stage).
- B. Victim can get a DVTPO/CRPO (Protection Order)
- C. Judge sets bond. Offender may only need 10% of the bond to get out of jail.

2. PRETRIAL

- A. Case is assigned to a Judge.
- B. Offender can plead Guilty to original charge or a lesser charge and get sentenced. If the Offender continues to plead Not Guilty, then the case will go to the third phase.

C. Prosecutor and Defense Attorney exchange information and evidence.

3. JURY TRIAL

A. The case can go to Trial where a jury decides whether the Offender is Guilty or Not Guilty of the offense after hearing all of the evidence.

B. Offender can still plead Guilty at this stage and waive his/her right to trial.

C. The court can continue the case several times (five or more times) in this stage. (**This occurs because the case has to be the oldest case on the Judge's list of cases before the case can go to Trial**).

4. SENTENCING

A. The Victim has the right to give the Court input on sentencing.

B. The offender could be sentenced to jail time or probation.

C. The Judge could order a No Contact Order as a condition of probation. If the Defendant violates the No Contact Order, you should contact the police if you are in immediate danger. You will also want to notify the Defendant's Probation Officer.