

# Common Questions about Protective and Restraining Orders

*For the Restrained Person*

## What is a Criminal Protective Order?

A Criminal Protective Order, called “CPO” for short, is a court order that protects someone from you. A CPO can order you not to hit, threaten, follow, or bother someone. Sometimes the order says you must stay away from the other person and have no contact with them. The judge may order a CPO after your arrest, conviction, or at any time in your criminal case.

## What is a Civil Restraining Order?

A Civil Restraining Order is also a court order that protects someone from you. It can order you to:

- Stay away from the protected person.
- Not contact or communicate with the protected person.
- Not hit, threaten, follow or bother someone.

## Do I have to obey the order?

Yes. If you disobey a restraining or protective order, **it is a crime**. You can go to jail or be fined. Read **all** pages of the order so you will know what you can and cannot do.



## What do the orders mean?

**No contact** means that you cannot contact, talk to, call, e-mail, fax, write to, text-message, or communicate in any way, either directly or indirectly, with the protected person(s).

**Caution:** Even if the protected person agrees to be with you, you must obey the court’s *No contact* order. You may have to hang up, not respond to emails or messages, or even go some place else. If you do not obey, you can be arrested and fined.

**Stay away** means that you have to stay a certain distance (often 300 yards) from the protected person. Read all pages of your order. It may also order you to stay away from the protected person’s home, workplace, car, or other locations. You must stay away from the protected person until the order ends or until the court makes a new order.

**Caution:** If you see the protected person in a public place, like a restaurant or library, leave right away – even if you were there first. Do not contact or go near the person.

**Peaceful contact** means that you can communicate with the protected person, if the contact is peaceful. You cannot, for example, do,

try to do, or ask anyone else to do any of these things to the protected person: hurt, throw things, call names, block passage, argue loudly, destroy or damage furniture or belongings.

If you and the protected person have children together, the judge may order peaceful contact for court-ordered visitation. Visitation orders must be very clear, with times of visits listed as well as locations for exchange of the children. Talk to a lawyer or go to the Restraining Order Help Center to learn more.

**Caution:** When you pick up or drop off the children for visitation, do not bother or harm the protected person!

**No Firearms:** If there is a Criminal Protective Order or Civil Restraining Order against you, you cannot own, purchase, or possess any type of firearm as long as the orders are in effect.

## How long does the order last?

A Criminal Protective Order lasts until the end (expiration) date written on the Order.

Civil Restraining Orders called Temporary Restraining Orders (TRO’s) last until the date of your court hearing which will be written on the TRO. At the hearing, the judge will decide if the Restraining Order should continue or not, and may also make new orders. The judge can make the Restraining Order last up to 5 years. Look for the end date on the order made after your hearing. If there is no end date written on the order, the order lasts for 3 years.

## I have more than one order, which one do I have to follow?

Criminal orders take priority over civil orders, even if the criminal order is older.

**Exception:** An Emergency Protective Order (called EPRO, for short) takes priority over other criminal or civil orders if it is more restrictive than the other orders. For example, if you have a peaceful contact order from criminal court, an EPRO that has no contact and stay away orders will be enforced instead of the criminal order, for as long as the EPRO is in effect.

## Do I need a lawyer?

If criminal charges have been filed against you, you have the right to a lawyer and, if you cannot afford a lawyer, the Court will appoint a one for

you. Even if there are no criminal charges, it is a good idea to speak to a lawyer. A list of legal resources for domestic violence cases is available at the Restraining Order Help Center or at the website listed below.

### Can I change or cancel the order?

Only the court can change or cancel an order. You are *not* allowed to make any changes to the order without the court's permission, even if the protected person agrees.

To ask the court to change or cancel your order, you must file papers in court. To file your papers, you can:

Get help at the:

Restraining Order Help Center  
170 Park Center Plaza, San Jose, CA  
Monday – Friday: 8:30 – 12:30  
1:30 – 4 p.m.

Get the court forms and instructions from the Criminal Court Clerk's Office open from 8:00-4:30 at:

Hall of Justice  
190 W. Hedding Street  
San Jose, CA

Palo Alto Courthouse  
270 Grant Ave.  
Palo Alto, CA

South County Courthouse  
12425 Monterey Road  
San Martin, CA

Or download the court forms and instructions from: [www.sccsuperiorcourt.org](http://www.sccsuperiorcourt.org).

### What do I do after I fill out the court papers?

For **civil cases**:

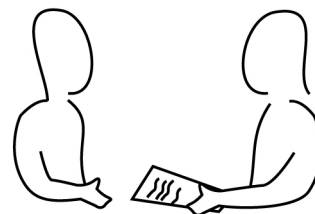
1. Make 3 copies of your court papers and take them to Family Court, 170 Park Center Plaza, San Jose. The clerks will date-stamp all copies, and keep the original.
2. You can ask that the Sheriff's Office serve the papers by completing a simple request form. There is no cost for them to serve the papers. You can also ask someone over the age of 18 who is not listed on the papers to personally serve (give) one of your date-stamped copies to the other person. After serving, the server must fill out a Proof of Service form. You cannot serve the papers yourself.

3. Keep the extra copy for your records. Bring it with you to court for your hearing.

For **criminal cases**:

1. If you have a lawyer in the criminal case, ask your lawyer to file the paperwork needed to modify the Criminal Protective Order.
2. If you are self represented, make 4 copies of your court papers (if you are on probation, make 5 copies). Take the copies to the Criminal Court Clerk's Office at the Hall of Justice, Palo Alto or South County. The clerk will date-stamp all copies, and keep the original.

3. Ask someone to personally serve (give) one of your date-stamped copies to the protected person. The server must be 18 or older and not involved in your case. After serving, the server must fill out a Proof of Service form. You cannot serve the papers yourself.



4. You must also serve the District Attorney (DA) for your case. If you are on probation, you must serve the Probation Department, too. You can serve the DA and the Probation Department by mail.



5. Keep the extra copy for your records.

### Should I go to the hearing?

Yes. You and the protected person should go to the hearing.

If this is a criminal case, and you do not go, the judge can have you arrested.

If this is a civil case, and you do not go, the judge can make orders without hearing your side.