

# Equal Justice Foundation

## Protection Orders – The Facts

### GETTING A PROTECTION ORDER FOR DOMESTIC ABUSE

- In principle, anyone can get a temporary protection (restraining) order against an intimate partner at any time, for any reason even, or especially if you have had her arrested for assaulting you.  
In practice protection orders are given almost exclusively to women.
- If your partner, her relatives, doctor, social worker, victim's advocate, etc., accuse you of domestic or emotional abuse, or even the *potential* for abuse or emotional harm of her or the kids, you can be served with a temporary protection order to stay away from her, her children, and her or your home.  
She may not even live there and still have you barred from entry to your home, apartment, or job.
- **Proof is not required and hearsay is admissible when seeking a protection order.** The order is issued *ex parte* (without the other party present or given a chance to defend themselves).  
Preferably, from her standpoint, with no prior warning whatsoever, and no chance for you to defend yourself.
- **Perjury and subornation of perjury are standard practice and the court hearing is perfunctory.**  
If a woman has trouble filling out the request form she will be given assistance by victim's advocates, shelter workers, and attorneys. They will tell her what she must say and help to fill out the form for the protection order.

### WHAT HAPPENS UNDER AN EX PARTE CIVIL PROTECTION ORDER

- **Protection orders only work one way. You are restrained.** She can, and will do anything she wants.  
If she calls you and you talk to her that is a violation of the protection order and you can and will be jailed.  
If she comes over and tries to crawl in bed with you (this actually happens), whether you cooperate or not, you have violated the protection order and you can be put in jail.  
If she leaves you a voice message, sends you an email or fax, you are in violation of the protection order if you make any response at all. However, such communications from her often make good evidence against her when the matter comes to trial or hearing. So save them with date and time of receipt noted. Transcriptions of any phone messages are required.  
The most common version of stalking reported to the Equal Justice Foundation is a woman who takes out a protection order against a man and then stalks him with cell phone in hand. When she finds him, she calls the police, who then arrest the man for violating the protection order. **Such cases have increased fifteen-fold since 2005!**
- If the restrained party (you) violates the order accidentally, deliberately, or even if she stalks you, you will immediately be jailed, held in contempt of court, and charged with criminal domestic violence.  
Since the order is a civil contempt matter there is no right to a jury trial and you are left attempting to prove a negative.  
Judges may order any sentence they wish, typically DV treatment for an indeterminate period and 3 to 6 months in jail.
- Once she gets the protection order you will be escorted from your home or job by police officers with no prior notice, often in the middle of the night, with little more than the clothes you are wearing, or what you can pack in five minutes.
- In the company of a police officer you may visit your home **once** after the order is served to collect any "*undisputed*" items you might claim.  
Usually such accompanied visits are limited to one hour and the police are there to protect her, not you.
- Typically you will not be able to see or talk to your kids. These orders are often used in custody fights.  
The order usually spells out the terms of any visitation or contact rights you have with any children in the relationship, usually none initially even if the children are yours and not hers. You must *scrupulously* obey the terms of the order, i.e., no telephone calls, no visiting at school, no birthday cards or gifts to the kids, **nothing!** If the kids call you that is a violation.
- **Get a good criminal defense attorney who is familiar with protection order hearings!**  
In life, and in America, you get what you pay for. See *Chapter 1 at dvmen.org* for list of qualified attorneys. As this is a civil matter you cannot get a public defender. And dress for court. Coat and tie are mandatory if you want to win!
- **You have very little time to prepare your defense! A hearing is supposed to be held within fourteen days as to whether the temporary order should be made permanent.**  
The protection order likely **will** be made permanent (*as in the rest of your life*) unless you have a competent and experienced attorney (*see Chapter 1 of dvmen.org*). Even then you have a good chance of losing as the hearing will be brief and perfunctory. Your side of the story will **not** be heard unless you have a good lawyer, so don't treat this casually.  
**A permanent protection order cannot be modified for at least four years and then only if she does not protest.**
- If the judge does not grant her a permanent protection order, be sure the temporary order has been removed from the Colorado Bureau of Investigation (CBI) database.  
That often requires a separate court order or you can contact the CBI and file a request to have it removed.  
You can, and will be arrested if the protection order remains in the CBI database even though the court has lifted the order. As a safety measure you should have a gun dealer run a check on you after the order is dismissed to be absolutely sure your name has been removed from all databases.
- **Remember, you are guilty unless and until you can prove your innocence!**

For additional information see *Domestic Violence Against Men in Colorado* at [dvmen.org](http://dvmen.org)  
This flyer is available online at [ejfi.org/PDF/Facts-Restraining orders.pdf](http://ejfi.org/PDF/Facts-Restraining%20orders.pdf)

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## WHAT YOU MUST DO

- **Stay away! No contact means NO CONTACT, direct or indirect!**

If you violate, or she contrives to have you violate the terms of the protection order you will find yourself in jail. A not so funny joke is that cell phones were invented to allow women to report protection order violations. *Believe it!*

If a relative or friend calls her and even mentions the protection order it is a violation. We have heard far too many cases where a man's mother calls her daughter-in-law thinking she can fix the problem and her son gets arrested.

- **Read the laws yourself!**

Do not assume your attorney is going to do everything for you. Do your homework. Look for loop holes or advantages in the wording of the law. Read the statute(s) you are charged under 20+ times if you have to. Men often get lazy, or are in shock, during the time before they have to go to the permanent orders hearing but the sentence you face is for life with little possibility of parole.

- **Objective evidence wins court cases, i.e., keep a journal of what, where, when, and who.**

Credit card receipts, phone records, answering machine recordings, emails, pictures, etc., are basic to winning your freedom. Collect what you can, identify date and time, and prepare a timeline of events. Go over the evidence with your attorney. Make sure evidence you have is admissible and has been given to the opposing party prior to the hearing. You only have a few days to do this so make it your top priority once you have been served with the protection order.

- **Get rid of any guns or ammunition you may have.**

From the time the protection order is imposed until it is cleared from all databases it is a violation of state and Federal law 18 U.S.C. § 922(g)(8), a.k.a. the Lautenberg Amendment, to purchase, acquire, or be in possession of firearms, ammunition, or other dangerous weapons, e.g., swords, grenades, explosives, etc. *This is a federal felony with a mandatory minimum of 5 years in prison if convicted.* **Keeping the weapons in a gun safe at your home is not acceptable.**

Collectors items are held to be in this category as well. "In possession" generally means in the same dwelling as, or in close proximity to. If you are visiting a friend and they have a gun collection, you can be held to be in violation and could be sentenced to five years (minimum) in federal prison.

If you have a gun collection, swords, etc., the Bureau of Alcohol, Firearms, Tobacco, and Explosives (BATFE) approved method of storage is with an attorney, with the police or sheriff, or with an approved firearms dealer. Remove them to an approved storage location until **after** you are sure the protection order has been lifted *and* your name has been removed from the state and federal databases. That will usually require a separate motion to the court or personally carrying or mailing a certified copy of the court order of dismissal to a Colorado Bureau of Investigation office. Do **not** assume that because the court dismissed the order that your name is not still in the CBI or federal databases.

- **Always carry a copy of the protection order with you to show police if you are stopped.**

The order will have specific terms you must meet and sometimes you can avoid arrest by presenting the officers the explicit terms of the order and showing them you have not violated any of the restrictions.

## WHAT YOU MUST NOT DO

- **Do not make any direct or indirect contact with her!**

Even accidental contact in a grocery store or mall can and will get you arrested. If your kids call you that is a violation of the protection order if you speak to them. If you accidentally hit the autodialer on your cell phone and it dials your home number, that is a violation and you can go to jail. Men have had their cell phones in their pocket and it has speed dialed home or her office. Jail him! Your computer may get infected with a virus or a worm and send her an email. That is a violation of the protection order and has resulted in arrest. Even being on the same road with her is grounds for your arrest.

- **Do not make any direct or indirect contact with the kids, her friends, relatives, employer(s), or other associates or third-parties.**

That will be more than an inconvenience should you work at or near the same location, and you can expect to lose your job in such circumstances, or go to jail for violating the order especially if you are escorted out in hand cuffs.

They may have been "your" friends or associates before but after a protection order is issued any female friends are hers. You will go to jail if you contact them. **Only** your attorney can make any necessary contacts.

**You should expect her to attempt to arrange for you to violate the order so she can have you jailed.**

## OTHER CONDITIONS

- Violation of a protection order costs the great majority of men we hear from their jobs.

A permanent protection order against you may result in the loss of your job, for example if you use a weapon or explosives in your work. Under DoD Directive 5220.6 you may also lose your security clearance.

- You will almost certainly be left confused with few answers to your questions.

A good attorney will take care of the legal issues in court. But you will probably never get the answers as to why she did the things she did and told the lies she told. **Accept it and forget it!**

*Equal Justice Foundation*

*455 Bear Creek Road*

*Colorado Springs, Colorado 80906-5820*

*Web sites: [www.ejff.org](http://www.ejff.org) and [www.domen.org](http://www.domen.org)*

*Email: [comments@ejff.org](mailto:comments@ejff.org)*

*If you don't know where else to turn you can call the Domestic Abuse Helpline for Men and Women at (888) 743-5754 or by email at [help@dabmw.org](mailto:help@dabmw.org). Volunteers are needed.*