

Information About Criminal Protective Orders and Civil Restraining Orders

What is a Criminal Protective Order (CPO)?

A CPO is issued in a criminal case to protect someone (the Protected Person) from a Defendant. The criminal case is initiated by the District Attorney's Office. A CPO may require the Defendant to stay away from and have no contact with the Protected Person, or may require that if there is any contact such contact be peaceful in every way. The expiration date is listed on the CPO. CPOs can only be modified by a judge.

What is a Civil Restraining Order? (Civil RO)

A Civil RO is issued to protect one or more people (the Protected Person) from another person (the Restrained Person). The Civil RO is issued as part of a legal action that is started by the Protected Person. The District Attorney is not involved. Civil ROs may include stay away orders, no contact or peaceful contact orders. Civil ROs can only be modified by a judge. An Emergency Protective Order (EPRO) is a type of Civil RO.

What are the differences between CPOs and Civil ROs?

	Criminal Protective Order	Civil Restraining Order
Who requests the Order?	The District Attorney	The Protected Person
What Court grants the Order?	Criminal Court	Family, Juvenile or other Civil Courts
How long will it last?	Up to ten (10) years. It expires at the date printed on the CPO.	Up to three years (Civil Harassment) or five years (DVPA family court" orders) unless renewed
What if it is violated?	If convicted, the Defendant can be jailed for up to one year. A conviction can also be the basis for a parole or probation violation.	If convicted, the Restrained Person can be jailed for up to one year and/or fined up to \$1000, for each violation.

When do CPOs and Civil ROs expire?

CPOs and Civil ROs expire on the date written on the order. CPOs can be effective for up to ten years. Some Civil ROs can be temporary, which usually means that they will be in effect until a hearing takes place to determine if long term orders should be put in place. If a Civil RO does not include an expiration date, it means that it will be in effect for three years from the date of the hearing, depending on the type of Civil RO unless it is renewed.

What is a "no contact" order?

A "no contact" order means that the Defendant listed on the CPO or the Restrained Person named in a Civil RO, cannot have any contact with any protected person. No contact includes no telephoning, faxing, emailing, text messaging, or sending messages to the other person through a third party. CPOs and Civil ROs may also include stay away orders, which require the Defendant or Restrained Party to stay away from the Protected Party and/or specified locations such as the Protected Party's home, workplace, or vehicle.

What if the Protected Person contacts me when there is a "no contact" order in place?

If you are a Defendant or a Restrained Party and there is a no contact order in place, then the Protected Party contacts you, you must quickly end such contact. The CPO and/or Civil RO may prohibit you from having any contact with the Protected Person, but the order does not prohibit the Protected Person from contacting you. Consequently, a Protected Person would not be breaking the law by contacting you, but if you allow such contact, you could be charged for violating the CPO or Civil RO. If convicted, you could be jailed for up to one year.

Can there be exceptions to no contact orders for child visits?

If the Defendant or Restrained Person, and the Protected Person ~~can~~ ^{come} together, the Court can include an exception to no contact orders that allows for peaceful contact ~~for~~ ^{for} court-ordered visitation. If there isn't a valid visitation order issued by Family, Juvenile or Probate Court, and you would like one, the process is described on the Court's website www.scscourt.org. The Family Court can also make custody and visitation orders in a Civil RO. There is also information available at the Courts-Self Help Center at 99 Notre Dame Ave., San José, which can be reached at 408.822.9226. You can also email non-emergency questions to the Self Help Center through the Court's website.

What is a peaceful contact order?

A "peaceful contact" order allows the Defendant or Restrained Person and the Protected Person to contact with each other, as long as the contact is peaceful. Usually there is no stay away requirement. A peaceful contact order prohibits a Defendant or Restrained Person from hitting, striking, threatening or harassing the Protected Person. It also prohibits the Defendant or Restrained Person from destroying or damaging property, blocking the Protected Person from leaving the house or using a phone, and arguing with the Protected Person in a loud voice.

If different types of orders are issued by a criminal court and a family (civil) court, which order will be enforced?

Sometimes Courts issue CPOs and Civil ROs that are different from each other. The Courts use new law to decide whether to enforce the CPO or the Civil RO. The new rules provide that if any CPO or Civil RO requires no contact, that contact order will be enforced. For example, if a Civil RO allows peaceful contact, and a CPO requires no contact, the CPO will be enforced and the Defendant can have no contact with the Protected Person. On the other hand, if a CPO allows for peaceful contact, and a Civil RO requires no contact, the Civil RO will be enforced and no contact will be allowed.

If multiple CPOs and/or Civil ROs are issued, and there are no contact orders, these three rules apply. First, CPOs have priority over Civil ROs. Second, EPROs have priority over other Civil ROs. Third, if the CPO is different from another CPO, or if one Civil RO is different from another Civil RO, the most recent order will be enforced.

Can CPOs and Civil ROs be modified after they are issued?

CPOs and Civil ROs can be modified, but only by a judge. If you wish to have a CPO modified, you will need to fill out a form titled "Request for Hearing on Protective Order Modification/5 Day Written Notice to Office of the District Attorney," which is available in the Court Clerks office at Criminal Court, 190-200 West Hedding Street, San José. To modify or extend a Civil RO, you need to file a Request to Renew or Request for Order with the Court that issued the order. For help to modify a CPO or a Civil RO, you can visit the Restraining Order Help Center at 170 Park Avenue, San José at 408.345.709.