

WHAT YOU CAN DO WHEN YOUR MULTNOMAH COUNTY FAMILY ABUSE PREVENTION ACT (FAPA) RESTRAINING ORDER HAS BEEN VIOLATED

A Family Abuse Prevention Act (FAPA) restraining order is a civil protection order that prohibits the Respondent (the person who the order is against) from doing certain things (such as calling or writing you, coming within 150 feet of you, and going to your home or workplace).

When the Respondent does something that is not allowed under the restraining order, you (the Petitioner) can enforce the order by calling the police. Once the police have taken a report, the Respondent may be arrested. The District Attorney's office will then review the case. If the Respondent is not arrested, you may want to call the District Attorney's office and ask for a review of the case. The District Attorney's office may or may not decide to prosecute the Respondent for a violation of the restraining order after reviewing the case. (Depending on what the Respondent has done, he/she could also be prosecuted for a crime separate from or in addition to prosecution for violation of the restraining order.)

In order for there to be a violation of the restraining order,

- 1) the restraining order must have been served on (given to) the Respondent; and
- 2) the Respondent must have done something that the restraining order prohibits.

If you are not sure whether or not the restraining order has been served, you may want to call the Multnomah County Sheriff's Office: (503) 255-3600. If the restraining order has been served on the Respondent, you can look at the order and see which sections the judge has initialed (on the right side of the order) to determine whether or not the Respondent has done something the restraining order prohibits.

For example, if the judge has placed his or her initials on page 3 line 4A regarding no telephone calls and the Respondent has called you, then that would be a violation of the restraining order.

If you have safety concerns about the Respondent's behavior, you may want to do some safety planning - come up with a plan of things to do to keep you (and your children) safer. You may want to do this whether or not you decide to call the police and/or the District Attorney's office. There are advocates at the Portland Women's Crisis Line who can help with safety planning: (503) 235-5333

There are several steps involved in enforcing a restraining order:

Step One: If the restraining order has been violated, you may want to call the police.

If the restraining order has been violated, you may want to call 911 and ask for the police. It is a good idea to call at the time the violation is happening or as soon after as possible. If you do not feel in immediate danger and the Respondent has left the area, you can call the non-emergency police telephone number: (503) 823-3333.

Please remember that if you are afraid for your safety, you may want to call the police even if there has not been a violation of the restraining order. You can call 911 if there is immediate danger or the non-emergency number if there is not: (503) 823-3333.

Police response does not depend on whether you are a U.S. citizen or have any immigration papers.

Step Two: If you decide to call the police there are certain things you should do.

- ❑ When you call the police, tell the dispatcher your name and tell them that you have a restraining order.
- ❑ Once the police arrive, tell them there is a restraining order and give the officer the correct spelling of your name.
- ❑ If you have your copy of the restraining order with you, show it to the officer. A copy of the restraining order is not required, however.
- ❑ Be sure to ask for the card of the police officer who arrives at the scene (or at least write down his or her name).

Step Three: If the police come to the scene, the officer will do different things depending on whether or not there appears to be a violation and whether or not the Respondent is there.

In Oregon, the law says that arrest is required if the officer has “probable cause” to believe that a restraining order has been violated.

If the officer determines there does appear to be a violation of the restraining order and the Respondent is still in the immediate area, the police officer should arrest the Respondent and take him or her to jail.

- If the Respondent is arrested, he or she will be taken to the Multnomah County Jail. You can call (503) 988-4300 at any time to find out when the Respondent arrived, any court dates that have been set and if a release date has been set. It is important to have the Respondent’s name and date of birth when you call. You can also ask to be told before Respondent is released from jail.

If the officer determines that there does appear to be a violation of the restraining order but the Respondent has left the scene and is not in the immediate area, the police officer may not be able to arrest the Respondent. If you have ideas about where the Respondent may have gone, it is a good idea to tell the officer. The officer should take a report. Check with the officer to make sure a report is being taken. After a few days, you can call (503) 823-4636 to get the police report number. If the officer will not write a report, you may want to call the Portland Police Bureau's Domestic Violence Reduction Unit: (503) 988-6400.

If the officer determines that there does not appear to be a violation of the restraining order, then the officer should still write a police report. Check with the officer to make sure a report is being taken. After a few days, you can call (503) 823-4636 to get the report number. If the officer will not write a report, you may want to call the Portland Police Bureau's Domestic Violence Reduction Unit: (503) 988-6400.

No matter what happens, it is also important to safety plan - come up with a plan of things to do to keep you (and your children) safer. There are advocates who can help with safety planning. You can call the Portland Women's Crisis Line for more information: (503) 235-5333

Step Four: If a police report is made and you want the District Attorney's office to prosecute the Respondent for a violation of the restraining order then there are some things you need to do.

If the Respondent was arrested, the District Attorney's office should get a copy of the report. Call before 10:00 a.m. the next business day to make sure they have received it: (503) 988-3873. It will be helpful for the District Attorney reviewing the case to know whether you want to have the Respondent prosecuted.

If the Respondent was not arrested, call the District Attorney's office at (503) 988-3222 to let them know if you would like the Respondent to be prosecuted. The office is open from 8:00 a.m. to 5:00 p.m. Monday through Friday. After you call the office, they will request the police report. It is helpful to give the District Attorney's office the police report number if you know it.

You can ask the District Attorney's Office at any time to speak with a victim advocate about safety planning (thinking of ways to keep you and your children safer): (503) 988-3222.

Step Five: After obtaining the police report the District Attorney's office may or may not decide to prosecute the Respondent for a violation of the restraining order.

The District Attorney's office will look at all of the evidence and determine if they can prove "beyond a reasonable doubt" that the Respondent has engaged in conduct that is prohibited by the restraining order.

- ❑ The District Attorney's office wants to know if you are interested in pressing charges.
- ❑ They will look at the police report and any other evidence that could be used to show that the Respondent was in violation of the restraining order. Examples of other evidence include: name on Caller ID, messages on answering machine, witnesses to the event, physical marks, and letters.
- ❑ Usually the District Attorney's office will not go forward with a case if the only evidence available is the oral testimony of both parties. The District Attorney usually wants some other evidence. If you have other evidence, it is important to make sure that the District Attorney's office knows that. Also, when reviewing the case, the District Attorney may take into consideration whether or not you invited contact with the Respondent.

Step Six: If the District Attorney decides to prosecute the Respondent for a violation of the restraining order there will either be a trial or a plea agreement.

After the District Attorney decides to prosecute the Respondent, the District Attorney must file a "charging instrument." At this time, a warrant will be issued for the arrest of the Respondent if the Respondent is not already in jail.

Once in jail, the Respondent will be arraigned. An arraignment is when the Respondent is formally charged with the violation of the restraining order. The court will tell the Respondent of the charges and the pleas (guilty, not guilty, no contest) that could be entered. During the arraignment, a trial date will be set for about two or three weeks later. However, the trial may or may not happen at the time it is scheduled for.

If you have any questions about whether or not a "charging instrument" will be filed or about arraignment, you may want to call the District Attorney's office: (503) 988-3222.

Plea Agreement

During the time period after the arraignment and before trial, the District Attorney's office may attempt to reach a plea agreement with the Respondent.

- ❑ That means that the District Attorney's office will see if the Respondent wants to agree to plead guilty (or no contest) in exchange for a certain sentence.

- ❑ If there is a plea agreement, there will not be a trial.
- ❑ Plea agreements are different and the sentence a Respondent gets based on a plea agreement will vary. A sentence could include probation, jail, domestic violence intervention counseling, a no contact order (which tells the Respondent not to have any contact with you for the time of probation) and/or other counseling required by the probation officer (such as substance abuse counseling).

Trial

If there is a trial (not a plea agreement), the case will be presented to a judge (not a jury).

- ❑ You, as the Petitioner, will be subpoenaed to testify at trial. The subpoena requires that you go to court. You will need to make arrangements with work, child-care, etc. Please remember that sometimes the trial has to be set-over (postponed).
- ❑ At the trial, you will testify about what happened. The Respondent may also testify. There may be other witnesses who testify (for example, a police officer). There may be a victim advocate at court with you for support.
- ❑ After the testimony, the judge will decide whether or not the Respondent is in violation of the restraining order. If the judge finds that there has not been a violation, the Respondent will be found not guilty. If the judge finds that there has been a violation, the Respondent will be found guilty and sentenced by the judge. The Respondent can be sentenced at most to six months of jail for each violation but it is unlikely that this will be the sentence. The sentencing of the Respondent often happens the same day of trial.

If you have any questions about plea agreements, trial or sentencing, you may want to call the District Attorney's office: (503) 988-3222.

Step Seven: If the District Attorney decides not to prosecute the Respondent for a violation of the restraining order there are some other things you can do.

If the District Attorney's office decides not prosecute the Respondent for a violation of the restraining order, it is a good idea to do some safety planning - come up with a plan of things to do to keep you (and your children) safer. There are advocates at the Portland Women's Crisis Line who can help with safety planning: (503) 235-5333.

You may also want to think about asking the court to modify (change) certain parts of the restraining order to try and make your situation safer. For example, if you feel that the Respondent is harassing you when you drop your child off for parenting time, you could ask the court to change the location of the drop-off. You may want to talk to an attorney at Legal Aid Services of Oregon about your legal options: (503) 224-4086. You could also talk to an advocate at the Portland Women's Crisis Line: (503) 235-5333.

Even if the District Attorney's office decides not to prosecute the Respondent for a violation of the restraining order, you may want to get a copy of the police report. You can call (503) 823-4636 to get the report number and then call (503) 823-0043 to order the report. The report costs money (the amount depends on the number of pages).

If you want to talk to the District Attorney's office regarding their decision not to prosecute the Respondent for a violation of the restraining order, you can call their office: (503) 988-3222.

Helpful Phone Numbers:

Portland Police Bureau Domestic Violence
Reduction Unit: (503) 988-6400

Non-emergency Police: (503) 823-3333

Multnomah County District Attorney's Office: (503) 988-3222

Multnomah County Sheriff's Office: (503) 255-3600

Portland Women's Crisis Line: (503) 235-5333 or 1-888-235-5333

Legal Aid Services of Oregon: (503) 224-4086