



Important

DIFFERENCES

BETWEEN CIVILIAN AND MILITARY PROTECTION ORDERS

November 2024



JANE WORKS ON A MILITARY BASE IN SAN DIEGO.

She recently broke off a relationship with her boyfriend (Jason), who is stationed there. Against her wishes, her boyfriend continued to call her and stop by her office. Jane went to base command and explained that she wanted her boyfriend to leave her alone. Jason's commanding officer ordered him to stop having any contact with Jane. Jane was told that she has a military protection order (MPO) and Jason will be held accountable if he bothers her. Jane is shopping in the local grocery store when Jason approaches her and asks her to give their relationship another chance. As she attempts to walk away he begins following her and shouting. Bystanders call law enforcement and Jane explains that she has a military protection order but has no paper documentation. Who can enforce Jane's order?

If you work or live near a military installation, this scenario may be more likely than you think. Those seeking to aid survivors with ties to the military should be aware of some key differences between the ways civil protection orders are issued and enforced and the ways that the military issues and enforces protection orders. Knowledge of these differences inform victim advocates and aid survivors in deciding to obtain one kind of protection order over another or to even obtain both. Advocates, attorneys, and other allied professionals can use this information to inform their practice, increasing survivor safety and offender accountability.

A court may issue civilian final protection orders after the abuser has had notice of the protection order and the opportunity to respond to the petitioner's request for the protection order. A commanding officer issues a military protection order. The commanding officer orders the service member to discontinue the abuse and related activities. The commanding officer may even assign the service member to different housing or order them to perform or refrain from certain activities. While the relief provided in military protection orders may differ, the important difference is that there is no opportunity for the service member to respond. These are orders issued by a commander directly to a subordinate.

There are key differences in how civilian and military protection orders are issued, yet the greatest differences may lie in how these two types of orders are enforced. Civilian protection orders that meet certain due process requirements are entitled to enforcement in other states, tribes and territories.¹ Civilian protection orders are also entitled to enforcement on military installations.² The Department of Defense has promulgated a series of directives indicating that protection orders issued by civilian courts are to have full force and effect on military installations.³ Military protection orders are not eligible for similar interjurisdictional enforcement except in limited circumstances.⁴

Military protection orders are a directive issued without an opportunity to respond or refute. As such, military protection orders do not meet the necessary due process requirements to be eligible for enforcement outside of the military context.

While civilian courts and law enforcement do not have the power to enforce military protection orders, they can play a crucial role in increasing offender accountability. Law enforcement can arrest for criminal actions other than the MPO violation (i.e., assault, stalking, harassment). When service members' violations of civilian and military protection orders are identified, it is crucial for law enforcement to report them to base command or military police. This proactive practice of informing military counterparts of infractions can significantly enhance offender accountability when civilian enforcement options are unavailable. Law enforcement should consider entering into a memorandum of understanding with base command to further collaboration.



FACILITATING SERVICE OF CIVIL PROTECTION ORDERS

Service of civilian orders on military installations is not as easily accomplished as issuing a direct order to a subordinate. Local law enforcement and service of process agencies lack the authority to serve documents on military installations. As a result, service must either take place outside of the installation or there must be an arrangement between base command or military police and local law enforcement. Base command and civilian law enforcement may wish to enter into a memorandum of understanding (MOU) to detail how service of process will take place on individuals located on the military installation. This MOU can greatly enhance the ability of civilian law enforcement to successfully serve court documents.

Military Protection Orders v. Civil Protection Orders

| Type of Order | Military Protection Order (MPO) | Civil Protection Order (CPO) |
|---------------|--|--|
| Initiated By | A survivor can request an MPO. Commanding Officers (CO) may initiate the process without the consent of the parties. Family Advocacy Personnel (FAP) may request an MPO on behalf of a survivor. | Survivor initiates the process. Note: A person acting on behalf of the survivor (e.g., parent or legal guardian acting on behalf of a minor or vulnerable adult) may also initiate a filing per statute. |
| Issued By | A CO issues an MPO. | A local civil court issues a CPO. |
| Enforceable? | Enforced within military installations or by military law enforcement agencies. MPOs are NOT enforceable by civilian law enforcement. | Enforced anywhere (on and off military installations), and by civilian law enforcement. |
| Due Process | CO can immediately, without providing prior notice and opportunity for the active-duty member to present their side of the story, issue a protection order. | Due process required: Notice (service of process) and opportunity to be heard (a hearing) must be provided to the respondent. |
| Relief | Generally limited in nature but can be tailored to a survivor's needs. Cannot contradict an active civilian protection order. | Available relief is determined by the issuing court's statutes. Generally, CPOs offer comprehensive relief, which can include economic relief, stay away provisions, no contact, use and possession of home, property, financial support, child custody, and firearm prohibitions. |

Military Protection Orders v. Civil Protection Orders

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| Supersedes other orders | Does not supersede CPOs; both can be in place concurrently. An MPO can be at least or more restrictive than a CPO (but an MPO's less strict conditions do not supersede the CPO). | Is not superseded by MPOs; both can be in place concurrently. |
| Duration | An MPO shall remain in effect until the CO terminates the order or issues a replacement order. | Duration is determined by the issuing court's statutes. |
| Violation Consequences | Can result in military disciplinary actions. | Can result in civil or criminal contempt or other legal penalties. |
| Full Faith and Credit under the Violence Against Women Act | Not granted full faith and credit and is only enforceable by military law enforcement agencies and/or the CO. (except under limited circumstances) | Order is entitled to full faith and credit and is enforceable by all courts and law enforcement in all States, tribes, and U.S. territories. |
| Fees | No cost. | No cost for victims of domestic violence, dating violence, sexual assault, and stalking for issuance, service, registration, dismissal, enforcement, or withdrawal of a protection order. |
| Who can assist? | Free assistance is available from the Family Advocacy Program. | Free assistance may be available from legal services and advocacy programs for filing and representation. |
| Firearms Prohibitions | Does not trigger the firearm prohibition in 18 U.S.C. § 922(g)(8). | May trigger state and federal firearm prohibitions. |

Source: [Serving Military-Connected Victims/Survivors of Domestic Abuse](#)

Serving Military-Connected Victims/Survivors of Domestic Abuse

This resource, written in collaboration with the National Organization for Victim Advocacy (NOVA) and available in [English](#) and in [Spanish](#), includes a military-connected domestic abuse checklist; a series of questions and answers about military protective orders (MPOs) and civilian protective orders (CPOs); a chart comparing MPOs and CPOs; links to Department of Defense directives, instructions and guidance on family advocacy and child abuse incidents; and other tools and resources for advocates and survivors.

The differences between military and civil protection orders, including their issuance and enforcement, can be confusing. There are several organizations that are well versed in the intersection between the military and civilian responses to domestic violence. The military's Family Advocacy Programs (FAP) promote public awareness within military and civilian communities and coordinate intervention at all levels, including law enforcement, social services, health services, and legal services. Assistance from a FAP can inform those seeking protection from abuse about their options through the military, as well as the civilian court system. For jurisdictions that contain a military installation or significant activity duty military personnel in their population, consider inviting someone from FAP to be on your coordinated community response.

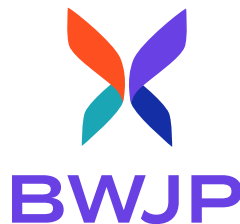
NCPOFFC provides technical assistance on all matters related to protection orders. Staff work with organizations, advocates, and survivors to inform and assist in the navigation of the civilian response to issuance, service, and enforcement of protection orders. These resources can assist survivors and professionals in navigating this area of protection order law and practice.

Please contact us at:

1.800.903.0111, prompt 2; ncffc@bwjp.org; www.fullfaithandcredit.org

Endnotes

- 1 See 18 U.S.C. § 2265.
- 2 See Armed Forces Domestic Security Act, 10 U.S.C. § 1561a.
- 3 See U.S. DEP'T OF DEF., INSTR. 6400.06, DOMESTIC ABUSE INVOLVING DOD MILITARY AND CERTAIN CIVILIAN AFFILIATED PERSONNEL (2021).
- 4 See 18 U.S.C. § 2265; NAT'L CTR. ON PROTECTION ORDERS AND FULL FAITH AND CREDIT, BATTERED WOMEN'S JUSTICE PROJECT, STATE AND TERRITORIAL STATUTORY FULL FAITH AND CREDIT STATUTES, (2024). Only three jurisdictions provide full faith and credit to military protection orders provided that the respondent received due process.



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