



## Protective Orders

### No-Trespass/No-Contact Order

What happens after a police report is filed?

Miscellaneous Criminal Justice Information

### Office of Victim Services

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## Protective Orders-Common Considerations and Questions

1. Is there a fee to file for a protective order?
  - **There is no fee associated with filing a protective order.** Many potential petitioners have been given the wrong information because in the previous years there was a filing fee.
2. When a client telephones or comes into the office for a protective order, what must the client have in order for the protective order to be filed?
  - **Current Address for respondent**
  - **Date of Birth for respondent**
  - **Victim of either domestic or family violence, stalking, or sex offense.**
3. When will a hearing be set for the final protective order?
  - *If* the court determines a hearing should be set for a protective order, it is set within two-four weeks after the petitioner has filed the protective order.
  - The court may combine the protective order hearing along with any divorce hearings pending which could interfere with the above-mentioned timeframe.
4. How long is a protective order effective once the judge granted?
  - The judge can grant a protective order for as long or as short as he/she deems necessary with the timeframe not to exceed two years.
  - A *permanent* protective order does not mean permanent, it is for two years.
5. Who is the petitioner? Who is the Respondent?
  - Petitioner: Person requesting protection.
  - Respondent: Person whom the petitioner is asking for protection from.
6. Can a married woman or man get a protective order?
  - Yes, a married person can file a protective order, and there does not need to be a divorce pending. This does become a little more difficult than that of the “average” protective order due to several more factors to consider, such as children, communicable property, and child support.
7. If only one name is on the lease, and it is the respondent’s name, can a protective order be granted?
  - Yes, however the petitioner will need to find a safe place to reside, and then file for the protective order. The petitioner cannot force the defendant to move from the residence if the petitioner’s name is not on the lease-unless special circumstances have been worked out with the leasing agent.

8. Can a protective order be granted if there is dissolution of marriage/divorce pending?
  - Yes, a protective order can be granted in addition to the court imposing a “TRO”, also known as temporary restraining order. A temporary restraining order is a court order restraining both parties from selling or destroying communicable property while the divorce is pending. It does not “protect” the petitioner from harm or abuse, and is not registered with the Delaware County dispatch as a protection order is.
  
9. What agency does OVS refer to if the client wants a Divorce, but cannot afford one, if the client considers himself or herself to be a victim of domestic violence?
  - A Better Way collaborates with Indiana Legal services. Please call 765-747-9107
  
10. What three things MUST a client to do after filling out the protective order?
  - Call the Delaware County Clerk’s office to check on the status of their filing to see if there is a court date.
  - Document! Document! Document!
  - Call OVS if any police reports are filed, or if they are requesting an advocate present at the protective order hearing.
  
11. If the client is living in a confidential location and the respondent isn’t aware of this location, what do we put as the petitioner’s address?
  - It is very important to make sure we know if the respondent is aware of the petitioner’s address. If he/she is not then make sure to put “SEE CONFIDENTIAL PAGE” in each section, which would normally require you to type their address.
  - *Everything typed into the protective order is considered public record EXCEPT the confidential page.*
  
12. If the petitioner would like to include children on the protective order, and there is a custody order that allows the respondent to visit the children:
  - The petitioner has a right to include the children if he/she feels the children are in danger, or something has happened to cause reasonable fear of harm to the children. However, the judge may not go against a previous court order unless the petitioner can verify and show the court there is a significant reason to keep the respondent from the children.
  
13. Which courts are protective orders typically held?
  - It depends on the monthly court calendar, which circuit courtroom it will be held in.
  - If divorce is pending, the protective order hearing most likely heard in the corresponding court.

14. Can a petitioner request that a protective order hearing be held in a specific court?
- Yes, the petitioner can request that a specific court hear his/her case.
  - The Delaware County Clerk's office may not be able to place the case in the specific court if the court's calendar is congested.
15. Where does the petitioner file a protective order?
- Delaware County Justice Building- Clerk's Office. This is located on the first floor, through the double doors and metal detector. You'll go to the big (and only) window when walking through the front doors.
16. If a petitioner files for a protective order, is this a reciprocal order?
- There is no such thing as a reciprocal order; however, the respondent may want to file a protective order against the petitioner once receiving their paperwork.
17. What is an emergency protective order?
- This is what a "temporary protective order" is, it protects the petitioner until judge either sets the case for a hearing, or orders the "permanent protective order".
18. What is the difference between an emergency protective order and a no contact order issued from the judge?
- A no contact order is usually through a criminal case, and is considered a condition of the defendant/respondent's bond.
19. How does a petitioner dismiss the protective order?
- If a petitioner wants to dismiss a protective order then he/she will need to personally go up to the Delaware County Clerk's office and file for a dismissal.
  - The petitioner cannot call over the phone to request the dismissal, and will need to take identification with them.
20. What happens if the petitioner does not appear for the protective order hearing?
- If the petitioner does not show up for a hearing, the judge may either continue the hearing, hold the case pending until further notices from either party, or *most likely dismiss the case*.
21. What is the process of a juvenile filing against another juvenile?
- A juvenile can file against another juvenile; however, the primary petitioners listed will be the juvenile's parent(s) or guardian. The parent(s) or guardian is listed first under the petitioner's and respondent's name then the juvenile.
22. What happens if the judge does not grant the emergency protective order?
- If the judge does not grant the emergency protective order, this does not mean he/she will not grant the permanent protective order. This simply means that judge needs to hear more information before a protective order can be granted.

23. What happens when the respondent violates a protective order?

- If the respondent violates a protective order, the petitioner will need to file a police report, or document this incident him or herself.
- The petitioner may also want to file for a citation hearing or request criminal charges to be filed through the prosecutor's office.

24. What is a citation hearing, and what are the steps to start this action?

- A citation hearing is request for a hearing to inform the court that there has been a violation of the previous court order.
- Filing a citation requires the petitioner to go to the Delaware County Clerk's office and filling out the appropriate paperwork. *Petitioners will need to take police report documentation and/or personal documentation with them when they fill out this paperwork.*

## **No Trespass & Ball State University No Contact Orders**

A “No Trespass” order may be issued by the Ball State University Police Department against a non-student who does not have a reason to be on-campus and is threatening the safety of a student. The following steps should be followed if a student is requesting a “No Trespass” order:

- Contact the Victim Advocate and go over a safety plan prior to implementing the process of a “No Trespass” order.
- File a police report with the Ball State University Police Department indicating the reason why he/she needs this person to be refrained from BSU campus.

A “BSU No Contact” order is issued through the Student Rights and Community Standards office. The order can only be issued against a student. However, a non-student can obtain an order as long as the person refrained is a student. The following steps should be followed if a student is requesting a “BSU No Contact” order:

- Contact the Victim Advocate and go over a safety plan prior to implementing the process of a “BSU No Contact Order” order.
- File a complaint with the Student Rights and Community Standards office. The student may have to go through the process of a campus judicial hearing once the complaint is filed. It is important that the student is aware of this process prior to filing the complaint.

## Explanation of Delaware County Criminal Justice System

### *What happens after you file a police report?*

Once a police report is filed, the following steps *may* apply:

- ✓ The initial officer may arrest the suspect, or determine that no further action is needed, and close the case---OR...forward the case to an investigator for further follow-up.
- ✓ The investigator will further investigate the case and determine whether to arrest the suspect, obtain a warrant, or just forward the case to the **Prosecutor's Office** for possible charges to be filed or decide no further action is needed and close the case.
- ✓ If misdemeanor charges are filed, the defendant will receive an Initial Hearing notification in the mail (usually within 2-3 weeks after the incident).
- ✓ If felony charges are filed, an arrest warrant will be issued and the defendant will receive notice of an initial hearing while incarcerated or through the mail if the defendant bonds out.
- ✓ If the case is forwarded to the **Prosecutor's Office**, the case will be assigned to an investigator within their office who will then work with the prosecutor to determine if there is enough evidence to file charges. The case may be sent back to the originating investigator for further evidence to be collected or formal charges will be filed or they will determine there is not enough evidence and close the case.

## **Definitions**

### **Uniform Officer:**

Takes Police Reports—the complaint of an incident. This is only a complaint and does not mean that charges are filed or an investigation is being conducted. All police reports are kept in Records Division and can be obtained by the Victim by request. Police reports are filed in order of the incident date or case report number, so in order to obtain a copy, one of those two pieces of information is necessary to know when requesting.

### **Detective's Division or Investigator:**

Conducts interviews, processes evidence, and conducts voice stress tests.

### **Initial Hearing:**

Held for the purpose of informing the defendant of his/her rights, charges against him/her, appoint an attorney if necessary and enter a plea of guilty or not guilty. The only person who is mandated to be there is the defendant; therefore, the court will not notify the victim.

During the Initial Hearing, the defendant will enter a plea of guilty or not guilty. If the defendant pleads guilty, the court will set a hearing for sentencing. However, if the defendant pleads not guilty the case will be set for a pre-trial conference, and trial.

Several different options are presented at pre-trial conferences---the defendant's attorney may ask for

- Ask for a continuance
- Request the defendant to be placed into diversion (certain restrictions apply)
- Ask for the case to be dismissed
- Negotiate with the Prosecutor for a plea offer—which will lead to the court setting a change of plea hearing.

If the prosecutor and the defense attorney do not agree on any of the options mentioned above, the case will be set for trial.

### **Pre-Trial Conference:**

A conference held before the trial begins to bring the parties together to outline discovery proceedings and to define the issues to be tried.

### **Diversion Program:**

Located in the Prosecutor's office. The purpose of Diversion is to give an offender the opportunity to have their case handled by Diversion instead of having charges filed. To be eligible for the Diversion, the offense must be a misdemeanor and be the first time the offender has been charged with a crime. The offender must have an attorney in order to be accepted by Diversion. If accepted, the offender would sign a contract of 6 months or 1 year, during which they will be on supervision. The contract will order the offender to do certain things, such as complete alcohol and/or drug program, have no other violations of the law. If the offender

successfully completes all terms of the contract, then the charge is dismissed. If the offender violates the contract, then the Diversion would be revoked and the charges would be processed through the courts.

**Trial:**

If the case goes to trial it will be either a Bench Trial (Judge) or a Jury Trial. At the end of the trial the judge or jury will find the defendant guilty or not guilty.

**Sentencing Hearing:**

The sentencing hearing a defendant is given a sentence and informed of all terms of the sentence, i.e. probation, community service, jail time, costs, fines, restitution, etc.

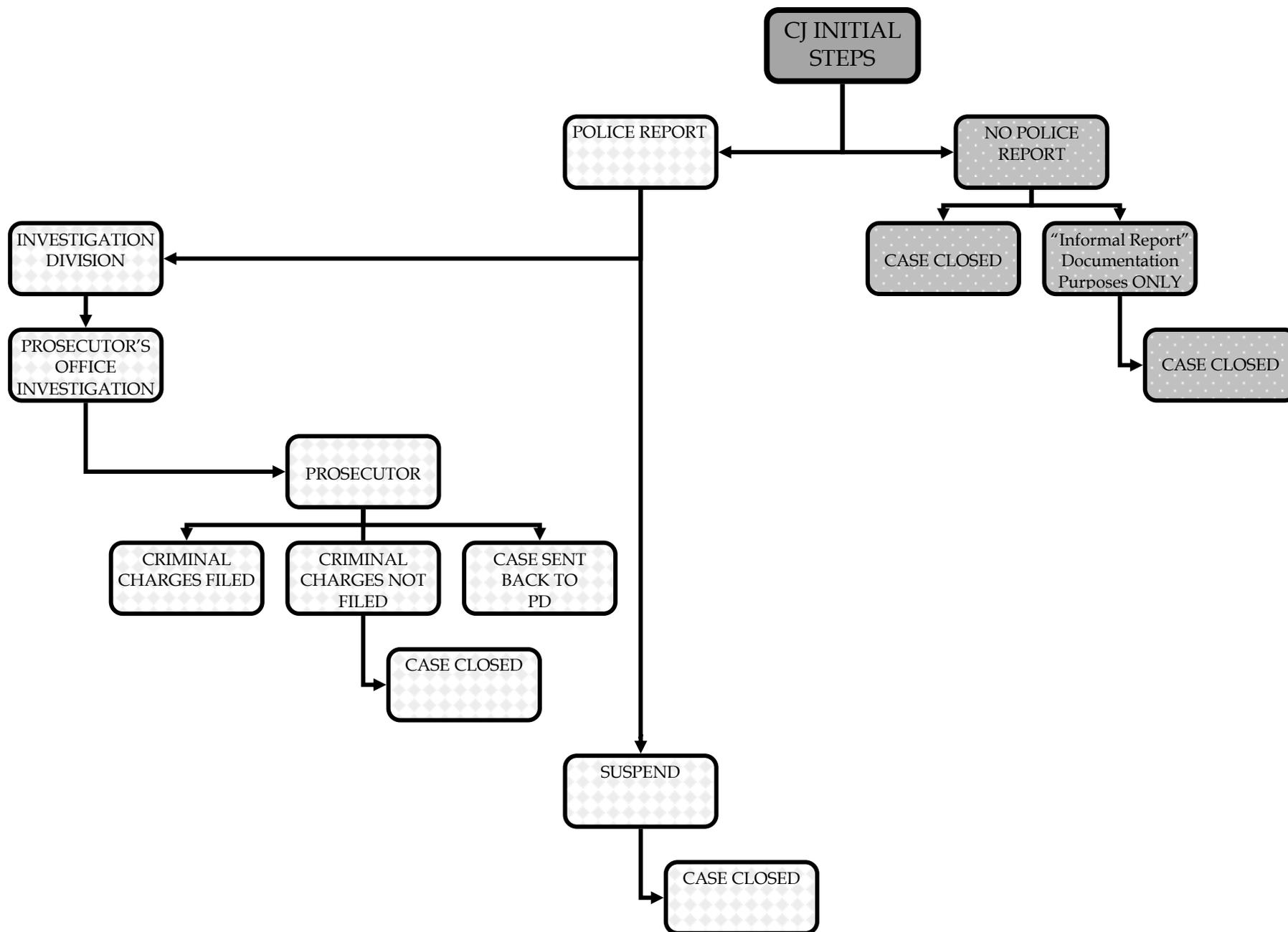
**MISCELLANEOUS COURT INFORMATION**

If a defendant requests a speedy trial, the court MUST set the date within 70 days after the defendant has been charged.

The defendant can plead guilty any time up to/and on the day of the trial.

*Jury Selection Info:*

Both Prosecutor and Defense Attorney's are allowed 10 strikes for the jury selection. If the potential juror can be stricken for a good cause, and excused by the judge, neither the Prosecutor nor the Defense Attorney will have to use one of their strikes.



CJ SYSTEM:  
FELONY CASES

