

ORDERS OF PROTECTION

What is an Order of Protection (OP)? An Order of Protection is a legal document in which a judge orders a defendant to follow specific rules of behavior. There are two types:

NO CONTACT (NCOP) Also called a *Stay Away Order*. Absolutely no contact is allowed between the defendant and the victim. This includes no phone calls, no emails, no texting, no third party contact, no notes, no letters, no hanging out in the neighborhood, no waiting outside a place of business or school.

NO ILLEGAL CONTACT (NICOP) The judge has determined that the defendant may continue to have contact with the victim as long as no further crimes are committed.

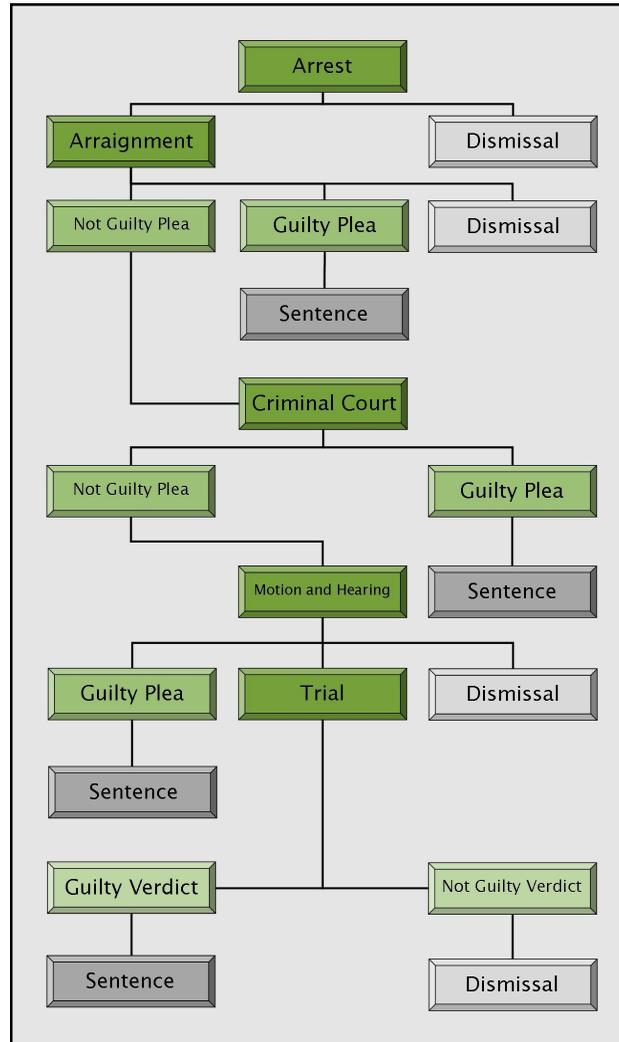
Why does a judge order an OP? The order is placed by the judge primarily to provide the victim with some protection against an abuser. A judge can issue an OP regardless of whether a victim has requested an OP or not.

What do I do if the defendant violates the OP? You must call the police. You will need to have a copy of the OP. Do not call your crime victim advocate to report a violation.

How long is an OP in effect? It varies. New York State statutes determine how long an OP is active.

How can I drop, renew or amend an OP? An order of protection remains in effect as written until it is changed or terminated by the court, or it expires. To request a change in the order contact your crime victim advocate for assistance. You will be asked to write a letter to the judge stating the specific reasons for the change. If the charges are domestic violence related you will also need to complete an in-depth interview with your crime victim advocate. It will still be up to the judge to change the order. An OP cannot be changed by an agreement between the victim and the defendant.

PROCESS FOR MISDEMEANOR CASES IN ALBANY COUNTY COURTS



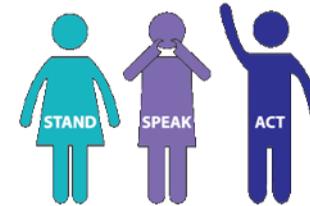
Daniel P. McCoy, Albany County Executive
 Albany County Crime Victim and Sexual Violence
 Center is a department of Albany County government

No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249 (c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under [VAWA], and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.

MISDEMEANORS

**What is a Misdemeanor?
 How Can a Crime Victim
 Court Advocate Help?
 Legal Definitions**

**Frequently Asked Questions
 Orders of Protection
 Process for Misdemeanor Cases in
 Albany County Courts**



**Albany County Crime Victim
 and Sexual Violence Center**

112 State Street, Room 1118
 Albany, NY 12207

24-Hour Sexual Assault Hotline
 (518) 447-7716

Main Office & Information
 (518) 447-7100

Fax: (518) 447-7102

email: cvsvc@albanycounty.com

website: www.albanycounty.com/cvsvc

ALL SERVICES ARE FREE

Confidential counseling and therapy to all victims
 and their non-offending family and loved ones

Advocacy in Albany County courtrooms, hospital
 emergency departments, and police stations

Assistance filing claims for compensation with
 the NYS Office of Victim Services

Prevention Education

WHAT IS A MISDEMEANOR?

A misdemeanor is a criminal offense for which a defendant can be sentenced up to one year in a county jail facility. Examples of misdemeanor charges include stalking, criminal mischief, unlawful imprisonment, bail jumping, criminal possession of a controlled substance, forgery, sexual misconduct, menacing, assault, larceny, graffiti, sexual abuse, petit larceny, criminal contempt, possession of a weapon and harassment, among others.

The Albany County District Attorney is responsible for prosecuting all offenses which occur throughout Albany county. Misdemeanor cases are processed in the local court of the city, town or village where the crime occurred. It is not necessary to have private legal representation.

Charges against a defendant are determined by law enforcement officers in accordance with NYS Penal Laws. If a defendant is found guilty sentencing is always determined by the judge.

There are three categories of misdemeanors - Class A, Class B, and Unclassified. The difference between Class A and Class B is the severity of the crime.

Class A - most serious charges, with sentencing up to one year in the Albany County Correctional Facility (ACCF).

Class B - sentencing up to ninety (90) days in the ACCF.

Unclassified misdemeanors include vehicle and traffic law offenses such as driving while intoxicated and unlicensed operation of a motor vehicle.

Misdemeanors are classified as First, Second or Third Degree. The lower the number preceding the charge the more severe the charge (example: First Degree Assault is more severe than Second Degree Assault).

Violations are not considered crimes but can have consequences of up to fifteen (15) days in jail. Examples include harassment, disorderly conduct, trespassing and loitering.

HOW CAN A CRIME VICTIM COURT ADVOCATE HELP?

Court Advocates at the Albany County Crime Victim and Sexual Violence Center are available to answer general questions about the criminal justice system and specific questions about your case, as well as provide referrals to services in the community. Advocates serve as liaisons with area hospitals, clinics, physicians in the private sector, human services organizations, the District Attorney's office and law enforcement agencies in Albany County.

Advocates are assigned to specific criminal courts in Albany County. Call (518) 447-7100 and the advocate assigned to your case will contact you. Note: court advocates can only discuss details of a specific case with the victim or the victim's legal guardian unless written permission is provided to your advocate. Advocates cannot provide legal advice. Court advocacy is not confidential.

LEGAL DEFINITIONS

Acquittal - official decision by a court of law that a person accused of a crime is not guilty

Appeal - request to the court by the defendant to reconsider charges

Appearance Ticket - written order issued by law enforcement requiring a defendant to appear for arraignment

Arraignment - stage of the criminal justice process when the defendant is brought before the judge and informed of the criminal charges; bail is determined and/or an Order of Protection is issued

Arrest - process by law enforcement of taking an accused person into legal custody to answer a criminal charge

Bench Warrant - order issued by the court for the arrest of a defendant because the defendant did not appear for scheduled post-arraignment court date

Conviction - official decision by a judge or jury that a person accused of a crime is guilty

Defendant - 1) civil case - person being sued 2) criminal case - person accused of committing a crime

Dismissal - decision of a judge to drop criminal charges against a defendant

Felony - serious crime punishable by incarceration greater than one year in a state prison

Grand Jury - group of 16 to 23 individuals selected by the court to determine whether enough evidence exists to charge a suspect with a criminal offense

Hearing - testimony and arguments made before a judge in order for a judge to make a decision on a motion

Incarceration - confinement in jail or prison

Indictment - formal, written statement issued by a grand jury charging a suspect with a felony criminal offense

Jurisdiction - geographical area (city, county, village) in which a law enforcement agency has legal authority

Motion - method by which an attorney requests a court to issue an order, ruling or decision

Plea Offer/Bargain/Deal - agreement between the prosecutor, the defendant and the court in which the defendant agrees to plead guilty (usually to a lesser charge) in exchange for a more lenient sentence and/or no court trial

Preliminary Hearing - a pretrial hearing conducted by a judge to determine if an individual should be charged with a felony criminal offense

Prosecutor - District Attorney or Assistant District Attorney who presents evidence in court to support a reasonable belief that a defendant committed a crime

Remand - to return an accused person into custody

Restitution - monetary compensation for a loss, damage or injury

Restraining Order - Order of Protection

Sentence - punishment imposed upon a defendant who is convicted (found guilty)

Subpoena - written legal order issued by the court either requiring a witness to testify at a court trial or requesting documents

Summons - written legal order issued by the court requiring a defendant to appear for arraignment

Victim Impact Statement - written or oral statement from a victim submitted to the court prior to sentencing that describes the impact of a crime

FREQUENTLY ASKED QUESTIONS

What are my rights as a victim? The NYS Office of Victim Services (OVS) has created a 32 page brochure titled **The Rights of Crime Victims in New York State**. You can find this information on the NYS OVS website at www.ovs.ny.gov by clicking the link "Help for Crime Victims".

I incurred expenses and losses as a result of the crime. Is there anything I can do? You can seek restitution through the criminal court, the NYS Office of Victim Services or civil judgment/Small Claims Court.

If I am seeking restitution for property damage or reimbursement for medical bills, what do I do?

- If you are requesting restitution from the defendant through the criminal court, the Assistant District Attorney handling your case will need copies of all bills, receipts and estimates.
- Restitution by civil judgment can be sought only when a defendant fails to pay as ordered by the court. Information on filing a civil claim can be found at <http://www.nycourts.gov/courthelp/Booklets/SmallClaimsHandbook.pdf>
- Complete an application for the NYS Office of Victim Services (OVS) found at www.ovs.ny.gov; or schedule an appointment with a CVSVC crime victim advocate, who can assist in completing and submitting the OVS application with any bills, receipts or estimates for which you are claiming reimbursement. OVS will investigate your claim and determine your eligibility. Note: OVS is a payer of last resort and reimburses victims only for out of pocket expenses not covered by any other third party such as insurance or court ordered restitution. Once your OVS claim is active, copies of any subsequent bills, receipts and estimates can be sent to:
NYS Office of Victim Services, AE Smith State Office Building, 80 South Swan St, 2nd Floor, Albany, NY 12210

Do I need a lawyer? No. Misdemeanor cases are handled in the local courts by the District Attorney or Assistant District Attorney at no cost to the victim.

Must I be at court for the court proceeding? A victim is not required to go to court unless directed to do so by a subpoena from the District Attorney's office. However, a victim always has the right to be at proceedings. Note: failure to comply with a subpoena could result in criminal charges being placed against you by the court.

How do I find out what happened in court on my case? Contact the crime victim advocate assigned to your case at (518) 447-7100.

How do I drop charges? Once charges are filed, they cannot be dropped.

Why did the original charge get reduced? Charges are reduced when a judge accepts a plea offer.

Is there anything I can do if I disagree with the sentence? A sentence cannot be changed once the judge has made his/her determination. You have the right to submit a Victim Impact Statement to the court BEFORE sentencing.

The defendant's lawyer has contacted me. Do I have to talk to him/her? No. It is always your choice and right to consent to or refuse to talk to any representative of the defendant.

How do I find out a convicted defendant's jail status? By registering with VINE (Victim Information Notification Everyday) victims can use the telephone or internet to search for information regarding an offender's custody status and also register to receive notification when an offender's status changes. Registering is simple and quick at www.vinelink.com. Call (888) 846-3469 for information (TTY(866) 847-1298).

What should I do if there is a warrant for the defendant and I know where the defendant is located? Call the police with the information.

A defendant arrested recently is on the street again. Why isn't this person in jail? The accused may be released on his/her own recognizance or may have paid bail while waiting to appear in court for the offense charged.