

0:00

Hello, everyone.

0:01

Want to talk with you today about enforcement protective orders in response to violence against women crimes.

0:09

The opinions that will be shared today are mine and mine alone. They do not represent the opinions of the Department of Justice or the Violence Against Women office.

0:22

My name is John Guard. I'm chief deputy with Pitt county results in Greenville, North Carolina. They provide the information to you today.

0:29

So, let's go ahead and start off. What does a protective order? Well simply And this is a state definition, simply an order issued by court, instructed the person to abstain from abusing, following, contacting, being in the presence of or harassing the petitioner. That's generally a household member, although for today's purposes, we're going to speak specifically about intimate partner violence.

1:00

One's intimate partner, and it's usually set for a fixed period of time.

1:08

A protective Order on the federal level, the federal definition by the Violence Against Women Act,

1:15

Is this. It's any Civil or criminal restraining order, injunction, bail or Release Order, Probation Condition,

1:25

And all other orders of protection is issued to protect victims of domestic violence, sexual assault, dating violence, or stalking, or to deter offenders from further violence or abuse.

1:40

So, as you can see, the protective orders differ, And as we go through, the next few slides you're gonna see can differ dramatically, but that actually is a good thing for the local law enforcement officers who were responding to these, these homes, to enforce protective orders. So protective orders under full faith and credit. Full faith and credit is on under the Violence Against Women Act. It is talks about protective orders that are issued in one state, can be enforced in any other state. Same thing with tribal orders or orders issued within US. Territories.

2:21

So they've got to be enforced in all 50 states, all the Indian tribes, the District of Columbia, and, again, the US

2:29

Virgin Islands, Puerto Rico, American Samoa, Guam. So all the US territories, these orders are enforceable, so these orders will follow you from place to place to place. The jurisdiction enforcing the protective order follows their own laws, not those of the jurisdictions that the order was issued.

2:51

So if an order from Virginia is violated in North Carolina, the violation in North Carolina, I would treat it as if it's a North Carolina order.

3:03

So if that action would be a mandatory arrest in North Carolina, but a discretionary arrest in Virginia, the enforcement jurisdiction, North Carolina, in this scenario, would enforce it that way, just as if it was the order in that state.

3:23

Can protective order enforcement have an impact on repeat calls for law enforcement? while there's been some research done nationally into this issue

3:33

And I'll share with you what it tells us, in looking at a number of studies, where they look at the effectiveness of protective orders.

3:43

What is suggested is that it's, it's all tied together, how the victim is viewing the order and the severity of the violation along with how it's enforced and what the assumption is through. The studies is that if you have strong a strong enforcement strategy, it is likely to be a deterrent.

4:06

But if we relax as law enforcement of those then the term effect will be less. so I think it's one of those commonsense things, We always know if and jurisdiction is going to force protective orders are probably more apt to be abided by if you're not like probably won't.

4:29

Um, in a 1999 study had looked at the protective orders, and the drew, the correlation between relative risk of re-abuse, over a two year period, they found 68% of the women in the sample reported some form of this physical violence in the two year period following.

4:53

During the two-year period after the protective order, only 23% of the women reported subsequent re-abuse.

5:03

Research shows that protective orders resulted in a significant decrease in the risk of police reported

5:09

Intimate partner violence. research also shows that enforcement of the ownership diminish future fiscal valance, and protective orders obviously work best in

conjunction with significant safety plan and aided by community-based advocates. So, again, it comes to relationships. Law enforcement will not be able to do this. By itself, it's better having a team member and a critical part of that team are the system-based advocates or community-based advocates.

5:42

Assisting us in this effort study suggests that the effectiveness of protective orders are tied directly to the consistency of enforcement and we've talked about that earlier.

5:55

Then, you know, enforcement isn't just for the major violations, they assaults and things. There has to be consistency. So even at and I use this term, really loosely a minor violation, you know, if it's enforceable, then that's what we should do because those people that are the defenders of the orders have already been put on notice. So how we respond is critical to the future. Terms and Conditions of Protective Order Watson and I'm well, standard terms, are going to vary by issuing jurisdiction.

6:28

Most orders have an other or free text or an issued an official, can leverage that order, any way they like. It could be unique just to that, that judge, or just to that community.

6:48

When I know working for the Sheriff's office, we're responsible in North Carolina for serving the orders that we read the order in its entirety. We make sure that if the defendant has any questions about the order, we do our best to answer those because our state statute says the defendant must knowingly violate. And we want to serve the same way as an agency each and every, every time.

7:12

And we found that really helpful when it comes to prosecution after the arrest. protective orders, double jeopardy does not apply. What I mean by that, is this: If you have a protective order that's in place, it valid it's been served, they commit assault against the protective order.

7:32

The defendant can be charged under both sections of the law, meaning they can be charged for the assault and a secondary charge for the violation.

7:42

In North Carolina, are protective order violations, are the same level as the misdemeanor assault. It's the highest-level misdemeanor we have in the State and the same could apply with multiple violations over time and even crank it up to a felony which, I know a lot of other states have that, as well.

8:05

You get asked this a lot. So, if the parties have reconciled, does that affect the validity of the order?

8:15

The question is no, we still have a duty. The only person that can get rid of the order is a judicial official or it has to have expired.

8:27

So reconciliation does not nullify the validity of the order.

8:36

And you cannot arrest the person who's protected by the order.

8:42

I, the plaintiff cannot violate there, cannot violate their order, are the order protecting them?

8:53

Elements of a valid protective orders this it gives the name of both parties, the date issued and the exploration. It's got to be signed or initial dolls on behalf of the judicial official, the specific terms and condition of the order are listed.

9:11

Verification is not required under the federal law. In other words, you don't have to look it up in a national registry. You can take the plaintiff's copy so long as it appears valid on its face that can be enforceable.

9:28

In some cases, the enforcement jurisdictions law may require verification if they can't provide a copy of the order. again. But but when we look at validity, all it has to do is be valid on its face, i.e. they have a copy.

9:49

We confirmed the elements of the order through the national registry. Just know that The national Registry is just that, it's national, it's designed in a way we'll accept orders from all 50 states, tribes, and territories. So it's really generic. It's really nice to see the actual order cause more substance.

10:11

Review the elements of the order in the state and local registries by the issue in jurisdiction, and you can confirm via phone calls to that issue in county or city.

10:24

I'll tell you and I know here, we've had them e-mailed to us, facts to us, during the course of our investigation, which has been helpful, as well.

10:36

We review the elements of the order, if it was previously filed, with designated already, is in the enforcement jurisdiction, we draw upon our own knowledge or information obtained through our interview and investigation. I mean, you still have to have an investigation, although the orders and enforcement, of seeing really easy responder protective order violations. On the way we're going to run it, have it run through the national registry to determine the performance is valid. before we ever get layer. We established safety for Ourselves, The victims, And other part is on the same.

11:12

We get on the site, we interview the parties, and I ask about protective order.

11:17

And if it's in effect, we determine whether firearms are present.

11:21

And if we can seize them under the color of the law than we do, we can complete an assessment of the protective order and confirm the expiration date and then we make an arrest. If there is probable cause to believe the order has been violated. What about failure to enforce? Where do we sit? Well, I can tell you. Lawsuits are abundant for failure to enforce. With us in North Carolina, the statutory language is challenge or showers on failure to do so cost agencies, a lot of money, and we know million dollars is on the low end. We've seen suits here locally that have gone as high as 525 million, not towards law enforcement, but towards an offender in wrongful death case, Intimate partner violence.

12:14

Again, liability as big, protective orders and firearms. They also determines that a valid order of protection issued against some user. We can enforce the prohibition; we can seize weapons pursuant to this.

12:30

Obviously, officers should also be knowledgeable about their own laws within their state or jurisdiction and how they can leverage those increase victim safety and offender accountability. I'm gonna leave you with two federal laws: first 1, 18 USC 9, 22 G 8. It's illegal for a person to possess firearms while subject to a court order. This is the federal law, and this is a difference with the federal law versus the state, and then transfer a firearm 18 USC 922 D8. Again, it's illegal to transfer a firearm onto a person knowing or having reasonable cause to believe that are subject to a court order. What types orders apply, you're just going back to the beginning of the presentation, it's in a criminal or civil war that means of probation, judgement, pretrial release conditions. Domestic violence protective orders.

13:22

No contact orders, general restraining orders, divorce decrees, child custody degrees.

13:29

Anything that says the defendant shall amount of assault, threaten or harass, essentially will check the block, and make it a federal poll Prohibited for possession. Officers responded back to recall, risk injury. So, we should take the appropriate action, each and every time we're, we're all saying, again, this, hopefully, will save the lives of victims of domestic violence, and also, to the law enforcement, men and women of law enforcement agency that are tasked with responding.

13:58

Thank you for your time, again, my name is John Guard, Chief Deputy with the Pitt County Sheriff's Office, in Greenville, North Carolina. My contact information is on the screen. Should you have any questions, please don't hesitate to reach out. Thank you.