

## **DOMESTIC VIOLENCE: A GROWING EPIDEMIC IN WASHINGTON**

Accusations of domestic violence (DV) crimes are taken very seriously by law enforcement, prosecutors, and the courts. Along with potential jail time and fines, a conviction for a domestic violence related crime (even what may seem like a “minor” incident) will have serious long term consequences that you need to minimize or eliminate.

We know that after you have been arrested for a domestic violence related crime, you may have feelings of despair, hopelessness, and even anger. Your life will be seriously disrupted due to an arrest or a domestic violence No Contact Order and you may feel overwhelmed by these charges. We are here to tell you that there is significant hope that your charge will be successfully resolved.

### **Learn Your Options. Here’s What You Can Do Know.**

We would like to help you fight your domestic violence case, such as assault, malicious mischief, harassment, violation of a No Contact Order, or any other domestic violence related charge.

We know that knowledge is power and the more information you have, the better able you will be to make good decisions regarding your DV case. This website is a great place to start, but we would be happy to meet with you and discuss the specific details of your DV case for easing your concerns.

If you have been arrested or charged with a domestic violence crime in Washington, you already know how seriously law enforcement takes these cases. What starts with a simple call to 911 can spiral out of control and end in a family being torn apart.

The strict domestic violence laws in Washington require police to arrest one of the parties if they believe that a DV crime has occurred, no matter how minor or innocuous the underlying act may seem. The arresting officer simply has no discretion.

### **What a Domestic Violence Conviction Can Do To You if You Don’t Hire a Skilled Attorney**

A domestic violence crime conviction brings consequences far beyond the threat of jail. It imposes “No Contact Orders,” the loss of constitutional rights, immigration consequences, the loss of firearm rights, mandatory DV batterers treatment classes as well as substance and alcohol abuse therapy. Furthermore, a conviction for a domestic violence crime can have long-lasting and detrimental effects on future employment and housing. **What can Nick George do to help your case?**

Spokane domestic violence attorney Nick George is an experienced and effective advocate for individuals facing domestic violence charges in all courts in Washington. If you call his office, Nick will be happy to schedule you for a free one-hour consultation to meet in his

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office face to face and discuss the specific charges you are facing. Nick will listen patiently to the specific facts and circumstances of your legal matter and will advise you of the elements of your charges, the possible outcomes of your case, as well as the best strategy to fight your charges.

### **You Must Find a Domestic Violence Lawyer!!!**

An attorney who is experienced in domestic violence crimes can help, whether you are the victim or the accused. If you are the victim your lawyer can get you out of a bad situation by obtaining restraining orders and facilitating custody changes. If you are the accused, your lawyer can help you stay out of jail.

Domestic violence can be physical, emotional, economic, psychological, or sexual in nature. And it is not restricted to spousal relationships only.

### **If You Have Experienced Domestic Violence**

If you have been a victim of domestic violence, you may be able to get an Order of Protection. If the person who hurt you then violates the Order, he or she can face jail time. An Order of Protection is temporary at first. A scheduled hearing will later determine if the Order will continue.

Before you file for a Protective Order, you should consult a domestic violence attorney. We will help you to navigate the process so everything gets covered and you are protected as much as Washington law allows.

### **If You Have Been Accused of Domestic Violence**

The first thing you should do is contact a qualified domestic violence attorney as domestic violence is a criminal offense and can carry criminal charges. Be candid about what happened, and your lawyer will let you know if the DV charge has any staying power. At this phase, it is important to tell the absolute truth, no matter how it may sound.

People may sometimes misunderstand what domestic violence is and mistakenly file charges. Accordingly, you should talk to your lawyer about any evidence that the alleged victim could present.

Your lawyer knows and will discuss your options. Even if you are found guilty, you may be able to avoid jail time if you agree to adjust your conduct and follow rules set out by the court.

Should an Order of Protection go into effect, don't violate it. No matter your personal feelings about the situation, the Order is legally binding.

### **Possible Outcomes of a Domestic Violence Case**

The possible outcomes of a DV case vary between states. For example, in Washington, there are about five possible outcomes:

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- Dismissal with prejudice. This is when the jury decides that the suspect is not guilty and the case should never be reopened.
- Dismissal without prejudice. This happens when there is not enough evidence for a conviction, but there's a possibility that the case could be reopened in the future.
- Amended charges. Prosecutors may adjust the charge so that it does not include a DV charge, but still includes a crime of which the person is likely to be found guilty.
- Stipulated order of continuance. This means that the case is dismissed if the accused person agrees to act according to specific rules of conduct.
- A guilty finding. Either through a plea or after a trial, the person is found guilty and sentenced by the court.

Talking to a domestic violence attorney can help you learn more about domestic violence laws in your specific state and what each outcome may mean for your future. Call us at (509) 474-1116 ASAP.

## **The Complicated Process and Procedures for Domestic Violence Allegations in the Court System**

### **Domestic violence defined**

Washington State law defines domestic violence as virtually any criminal act committed by one “family or household member” against another. Courts hear domestic violence offenses including: assault, property destruction, harassment and telephone harassment, intimidation with a weapon, reckless endangerment and violation of no contact or domestic violence Protection Orders. Felony domestic violence offenses like a No Contact Order violation involving an assault, a third violation of a No Contact Order, assault with a deadly weapon, or even murder, are heard in Superior Court. A “family or household member” includes persons who are now or have been married or resided together, who have been or are presently in a dating relationship so long as both parties are at least sixteen years of age, and persons who have a child in common. “Family and household members” also include step parents and step children and grandparents and grandchildren (including step grandparents and step grandchildren), and siblings.

Domestic violence offenses in municipal court are either misdemeanors, punishable by up to 90 days in jail and a \$1,000 fine, or gross misdemeanors, punishable by up to 364 days in jail and a \$5,000 fine. Felony domestic violence offenses are punishable by more than one year in jail.

A person who has been convicted of a domestic violence assault cannot possess a firearm or get a concealed weapons permit in Washington. This violation represents a felony.

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## **Interfering with reporting domestic violence**

A person who commits a domestic violence offense may be charged with a separate crime of interfering with the reporting of domestic violence if he or she prevents or attempts to prevent a victim or witness from calling 911, obtaining medical assistance, or making a report to any law enforcement official.

Interfering with reporting is a gross misdemeanor, punishable by up to 364 days in jail and a \$5,000 fine.

## **Mandatory arrest**

The law requires a police officer responding to an incident of domestic violence to make an arrest if the officer has probable cause to believe that a crime occurred.

## **Pressing or dropping charges**

A police officer responding to a domestic violence incident must complete a police report even if an arrest does not occur. The prosecutor's office will review the police report to determine whether or not to file charges. If charges are filed, only the prosecutor has the authority to dismiss them. A judge must approve the prosecutor's request to dismiss a case. The victim is a witness for the State and has no authority to drop charges. In many cases, the State will prosecute a case even if the victim refuses to testify.

The prosecutor's office may choose not to file charges. In that event, the victim will be notified of that decision.

## **Domestic violence victim advocates**

Domestic violence victim advocates assist domestic violence victims during the process of a domestic violence case. Victim advocates may contact victims by letter or telephone to gather additional information about the incident or to explain the victim's options. Victim advocates will explain the court process, often appearing with the victim at the court proceedings.

## **Civil protection orders**

Domestic violence victims may file a court petition for a Civil Protection Order. A protection order does not involve the police or criminal charges. If granted, a Civil Protection Order can:

- Prohibit contact of any kind
- Remove the abuser from a shared residence
- Grant temporary custody of children and set visitation schedules
- Order the abuser into treatment/counseling
- The order can be tailored to meet individual needs

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Petitions can be filed at Superior or District courts in Washington. If the officer determines that family or household members have assaulted each other, the officer will arrest only the person he or she believes to be the primary aggressor. State law also requires mandatory arrest for violations of No Contact Orders and Civil Protection Orders.

A person arrested for a domestic violence offense can be held in jail until he/she appears before a judge, usually the following day. The Court will require a defendant charged with domestic violence to sign a No Contact Order as a condition for release from jail prior to trial.

Prior to arraignment of domestic violence defendants, court probation counselors attempt to contact victims to determine whether they wish a No Contact Order to be issued. Probation staff in the jail can also determine whether or not a defendant has been released from jail. Victims may contact the probation counselors.

### **No Contact Orders**

A court is authorized to issue a No Contact Order prohibiting a defendant from contacting a protected party upon arrest or conviction for a domestic violence related offense. The court can issue a No Contact Order without the request or permission of the protected party.

A No Contact Order prohibits the defendant from contacting the victim in person, by phone, through writing, or through a third party at the victim's residence, work place, or school. The No Contact Order remains in effect while the case is pending. A No Contact Order with a duration of up to five years may be issued as a condition of sentence following conviction or as a condition of an agreed disposition. A No Contact Order issued by a judge is valid and enforceable even if it is not signed by the defendant or not requested by the protected person.

Violation of a No Contact Order which does not involve an assault is a separate gross misdemeanor offense. A No Contact Order which does involve an assault or reckless endangerment may be filed as a felony offense. A third conviction for violation of a No Contact Order may also be filed as a felony offense.

After a No Contact Order has been issued, only the court has the only authority to lift the Order.

### **Probation Supervision and Counseling**

Defendants who are convicted of domestic violence related offenses are usually placed on supervised probation for two years. Probation counselors monitor the completion of court-ordered treatment programs or counseling. Defendants must report often, in person, to Probation until compliance with treatment is well established.

Many defendants are court ordered to complete a one year, State certified domestic violence treatment program. Treatment programs are offered by several different agencies but all have similar elements. The programs will begin with a thorough intake evaluation of the defendant, including contact between the treatment agency and the victim. The intake is followed by many weeks of weekly group meetings. The second phase of treatment consists of monthly group or

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individual meetings. Defendants must meet specified exit criteria before being discharged from treatment. Defendants must pay for treatment.

In addition to or instead of domestic violence treatment, the judge can order alcohol/drug counseling, parenting classes, or sexual deviancy treatment.

## **Frequently Asked Questions**

### **Why did the court issue a No Contact Order?**

Washington law (RCW 10.99.040) says that because of the likelihood of repeated violence, the court may issue a Domestic Violence No Contact Order when any person is arrested or charged with a domestic violence offense.

### **I don't want a No Contact Order. Can I contact the defendant?**

It is the judge's decision whether to impose a Domestic Violence No Contact Order. It is important to remember that the order is against the defendant and it is his or her responsibility to abide by the Order. If the defendant engages in any communication in violation of the order, even if the defendant did not initiate the communication, he or she will go before the judge to determine a proper sanction.

### **How do I request that a judge change or cancel a Domestic Violence No Contact Order?**

You must file a completed form titled "Protected Person's Motion to Modify/Rescind Domestic Violence No Contact Order," or, better yet, get a skilled attorney to enhance the process. Once received, the judge will review your request and then decide whether to deny the motion without a hearing or schedule a hearing. If a hearing is scheduled, the protected party, the defendant, and the attorneys will be notified of the hearing date, and you will have an opportunity to talk to the judge and explain why the Order should be canceled ("rescinded") or changed ("modified").

### **What if there is more than one No Contact Order against the defendant?**

Judges cannot change or cancel Orders issued by another court. The requesting party must go to each court individually and request that an Order be changed or canceled. Remember: Unless all Orders have been canceled., the defendant remains in danger of being charged with a new crime if any contact occurs.

### **May I select the date for the hearing?**

Typically, requests to change or cancel No Contact Orders are heard on specific days and times. Your request should include any relevant information that you would like the to consider. This may include dates of availability or unavailability. Although the court may consider your request, there is no guarantee that a hearing on the date requested will be granted.

### **Will the defendant be present at the hearing?**

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The defendant has a right to be present at the hearing. However, the defendant is not required to appear at this hearing and the defendant also has the right to not attend unless his or her presence is otherwise required by the court.

**May I request special accommodations?**

Please include any special needs or accommodations in your requests. For instance, if you need an interpreter, please indicate the language. The courts will attempt to make every effort to accommodate special needs.

**I think my rights are being violated by the existence of this Order. Can I obtain an attorney to represent me?**

You have the right to be represented by legal counsel whenever you wish. The court cannot appoint an attorney for you.

**What information will the judge consider when hearing my motion?**

The Court will consider many factors when deciding whether to change or cancel an Order, including:

- Whether the defendant has a criminal history or history of domestic violence;
- Whether the defendant has a history of violating court orders, including warrants;
- The nature of the offense;
- The status of the case;
- The defendant's compliance with the conditions of release or probation;
- Whether there are new violations;
- How lethal the offense and other factors indicating future violence;
- Any other relevant factors.

**Nick George, domestic violence lawyer, can sort out the details, legal options, and sentencing alternatives for you. You can protect yourself and put your mind at ease by contacting Nick George at (509) 474-1116 [or by email](#).**

**Do it right now! Time matters when your future is at stake!**

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