

Important Differences Between Civilian and Military Protection Orders

Janette works a civilian job on a military base in San Diego. She recently broke off a relationship with Chris, who is stationed there. Against her wishes, Chris continued to call Janette and stop by her office. Janette went to base command and explained that she wished Chris to leave her alone. Chris' commanding officer ordered him to stop having any contact with Janette. The commanding officer gave a military protection order to Janette and explained that Chris will be held accountable if he bothers her. A week later, Janette is shopping off base in the local grocery store when Chris 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 911. When police arrive Janette explains that she has a military protection order. The police look at her order but say they cannot enforce it. They refer her to the local advocacy program to obtain a protection order from state court.

If you work or live near a military installation, the following scenario may seem familiar to you:

Scenarios like this illustrate a common problem. Those seeking to aid survivors with ties to the military should be aware of some key differences between the issuance and enforcement of protection orders by state courts (civilian protection orders) and protection orders issued and enforced by the military (military protection orders). Knowledge of these differences can be used to 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 key difference between civilian and military protection orders is the way they are issued. State courts issue final protection orders after the respondent has had notice of the protection order and the chance to have a hearing. This allows for due process to be afforded to the respondent. At the hearing, the respondent gets a chance to tell their side of the story and defend themselves against the allegations of the petitioner.

The process for obtaining a military protection order is different. Military protection orders are issued by a commanding officer. The military process allows commanding officers to order the service member to discontinue the abuse. The commanding officer may even order the service member to perform certain activities or limit their access to firearms. While the relief provided in military protection orders may be similar, the important difference is that there is no opportunity for the service member to respond. In the military process the service member is not accorded due process protections. This particular difference makes military protection orders ineligible for enforcement by states, tribes or territories.

Service of civilian orders on military installations is not easy. Local law enforcement and service agencies lack the authority to serve documents on military installations. As a result, service must take place off installation or there must be an arrangement between base command or military police and local law enforcement to allow for service to occur. 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. Creating an MOU can greatly enhance the ability of civilian law enforcement to successfully serve court documents.

While knowing the above similarities and differences between civilian and military protection orders can greatly enhance the aid you provide survivors, the most helpful information may be how these two types of orders are enforced. Civilian protection orders which meet certain due process requirements are

entitled to enforcement in other states, tribes and territories. These orders are also entitled to enforcement on military installations. 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.

Much like civilian courts, base command has an interest in their orders being obeyed. As outlined in the scenario, civilian courts and law enforcement do not have the power to enforce military protection orders. There is action that can be taken to increase offender accountability, despite civilian inability to enforce military protection orders. Service members' violations of civilian and military protection orders should be reported to base command or military police. A practice of informing military counterparts of infractions can enhance offender accountability when civilian enforcement options are unavailable.

Resources

The following agencies provide information on protection orders and the military and can assist survivors and professionals in navigating this area of protection order law and practice.

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.

- Army Resources
<https://www.myarmyonesource.com/familyprogramsandservices/familyprograms/familyadvocacyprogram/default.aspx>
- Navy Resources
<http://cnic.navy.mil/>
- Air Force Resources
<https://www.usafservices.com/Installations.aspx#ForceGridSearchBar>
- Marine Corps Resources
https://www.manpower.usmc.mil/portal/page/portal/M_RA_HOME/MF/G_Behavioral%20Health/A_Family%20Advocacy

The Battered Women's Justice Project's Military Advocacy Program provides technical assistance on matters related to domestic violence and military service members. Staff works with survivors to discuss the pros and cons and assist in the navigation of both military and civilian domestic violence responses.

To contact the Battered Women's Justice Program's Military Advocacy Project, please call 703-822-8118.