

NO CONTACT ORDER vs. ORDER OF PROTECTION

No Contact Order

A NCO is an order issued by a court to a defendant at or after arraignment on charges that prohibits the defendant from contacting directly or indirectly a person in any manner or from being within a certain distance of the person's home or place of employment. *ACA §16-85-714(a)*.

A NCO is always accompanied by criminal charges either before or after conviction.

A NCO is a one way street. The defendant may not contact the person listed on the NCO, both that person can contact the defendant as much as they want. It is up to the defendant to not respond phone calls, texts, etc. or leave the area.

There are two types of NCOs:

1. NOC as a condition of bond.
 - a. EXPLANATION: When someone is charged with certain crimes either the law or the judge can require a NCO to be served on the Defendant before he/she is released from custody. In this situation there has been no conviction, but complying with the restrictions of the NCO is a condition of their bond. Meaning...to stay out of jail the Defendant must not violate the terms of the NCO...stay away from the person(s) and or place(s) listed in the NCO.
 - b. What happens in the event of a violation? The prosecutor will need to motion the court to revoke the defendant's bond for violation of the conditions of that bond. If the bond is revoked the defendant will remain in custody until his/her trial.
2. Post adjudication NCO.
 - a. EXPLANATION. After a finding of guilt by the court after a trial or a plea of guilty by the defendant, the court may impose a NCO. Depending on the type of crime the defendant is found to be guilty of will depend on how long the NCO can remain in effect. More serious crimes allow for longer duration NCOs.
 - b. CITE: Arkansas Code Annotated §16-85-714(c)(1)
 - c. What happens in the event of a violation? This will be a new criminal charge under ACA §16-85-714(d), which is a Class A misdemeanor. It could also be a violation or parole or probation depending on what the original conviction and sentence was.

Order of Protection

This is different than a NCO; they are not the same and the terms should not be used interchangeably. An OP is issued by a circuit court as a result of a petition filed by a person believing themselves to be in immediate and present danger of serious injury or death. There is an entire statutory process a person has to go through to get an OP against another person. A person can begin that process in Faulkner County by to Victim Services in the Office of the Prosecuting Attorney.

The process of obtaining an OP begins by filing a petition with the proper court. The judge will review the petition and if he/she feels the petition meets the statutory criteria, a temporary OP will be issued then served on the respondent (the person the petitioner needs protection from). The temporary OP will inform the respondent: (1) to avoid any direct or indirect contact with the protected party(ies) listed in the temporary OP, (2) any other restrictions the court imposes, and (3) the date and time of the final hearing. In the final hearing the court will take evidence and testimony to determine if the temporary OP will be made permanent or if it will be dismissed. A final OP can be made permanent for up to 10 years.

Although an OP is civil in nature, if violated has a criminal penalties. A violation of an OP would be Class A Misdemeanor (ACA §5-53-134(b)(1)) or, depending on the circumstances, a Class D felony (ACA §5-53-134(b)(2)).

An OP is a one way street. The subject of the OP may not contact the person/petitioner protected by the OP. However, the protected person/petitioner may contact the other party. It is up to the respondent not respond phone calls, texts, or leave the area.