

# How to Ask the Judge to Change Your Criminal Protective Order

## HOW TO:

- Ask the Criminal Court to change the Criminal Protective Order made in a Criminal Court using the **Request and Order for Hearing on a Protective Order Modification** (form #CR-6003 - attached).

## WHEN TO USE:

- There is already a case open in Criminal Court where a **Protective Order in a Criminal Proceeding** (form #CR-160) was issued.
- You want to ask the Criminal Court to change its order so that the Criminal Protective Order and Civil restraining order match
- or
- You want to ask the Criminal Court to change its order for other reasons (for example, you want the Criminal Protective Order to allow for peaceful contact).

### Note:

- If you are represented by an attorney, your attorney must be involved in this process.
- If you are the Defendant, you must talk to your attorney or Public Defender before filing this form.
- If you are the Protected Person, you should talk to the District Attorney before filing this form.

Restraining Order Help Center  
Superior Court, County of Santa Clara  
170 Park Center Plaza, San Jose, CA 95113  
408-534-5709

[www.sccselfservice.org](http://www.sccselfservice.org)  
Santa Clara County  
Self-Help website

[www.sccsuperiorcourt.org](http://www.sccsuperiorcourt.org)  
Santa Clara County  
General website

[www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)  
State of California  
Self-Help website

# INSTRUCTIONS

**A. Fill out the attached blank forms** (type or print neatly in blue or black ink) using the attached sample forms as a guide:

- [Request and Order for Hearing on Protective Order Modification](#) (form #CR-6003)
- [Proof of Service by Mail \(Criminal\)](#) (form #CR-6004)

Use the same Criminal Court case number in which the Criminal Protective Order was made.

**B. How to File Your Papers** – Follow these steps *in order*, from 1 to 3:

1. Make **at least 3 copies** of your completed papers (one for You, one for the Protected Person or Restrained Person, and enough extras for all the people/Agencies you will need to serve).
2. **File your papers** in the **Clerk's Office** at the Criminal Court where the Protective Order was issued (San Jose, Palo Alto, Morgan Hill). Ask the Clerk for a court date.
3. **Have the papers served** – You **must have filed copies of the papers delivered by mail ("served")** to any of the following people who are in the Criminal case (all of them may not be involved):

- Protected Person
- Restrained Person
- Office of the District Attorney, 70 W. Hedding St., West Wing, San Jose, CA 95110
- Adult Probation Services, 840 Guadalupe Parkway, San Jose, CA 95110
- Public Defender (Main Office), 120 West Mission Street, San Jose, CA 95110
- Defense Attorney, get name & address information from the Criminal Court

at least 15 days before the court hearing date.

## **IMPORTANT: You cannot serve the papers yourself**

Papers can only be served by an adult (18 years or older) who is not a party to the case or protected by the orders or by a professional process server (find them in the telephone book).

These are the papers that must be mailed:

- A *filed* copy of the **Request and Order for Hearing on Protective Order Modification**.

Whoever mails ("serves") the papers must complete & sign the **Proof of Service by Mail (Criminal)** (form #CR-6004). The people who are served do not sign this form. The person who served the other people/Agencies gives the original completed Proof of Service to you to file.

**IMPORTANT : File the original Proof of Service with the Criminal Court Clerk's office before the hearing and keep a filed copy of the Proof of Service to bring with you to the hearing or bring the original Proof of Service form to the Court with you the day of the hearing.**

**C. Come to Court the day of your Court hearing –**

If you do not come to Court, the change you are asking for may not happen.

**Bring a copy of any other restraining orders you and the Protected Person or Restrained Person have. Also bring any papers you want the Judge to see.**

**D. After your Court hearing –**

The courtroom clerk will give you a copy of the order the Judge made.

If the order is modified by the Court, serve a copy of the modified **Protective Order in a Criminal Proceeding** on the Protected Person and the Defendant. Papers can only be served by an adult (18 years or older) who is not a party to the case or protected by the orders or by a professional process server (find them in the telephone book).

These are the papers that must be mailed:

- A copy of the **Protective Order in a Criminal Proceeding** (form #CR-160).

Whoever mails ("serves") the papers must complete & sign the **Proof of Service by Mail (Criminal)** (form #CR-6004). The people who are served do not sign this form. The person who served the Protected Person gives the Proof of Service to you to file with the Clerk's Office

If you still have questions, visit the Court's Restraining Order Help Center. If they can't answer your question they may refer you to an attorney for legal advice. Referrals to private and low-cost attorneys are available at the Restraining Order Help Center or on the court's website.

You must follow the Court's local rules. They are available on the Court's website ([www.scselselfservice.org](http://www.scselselfservice.org)).