

# STALKING COURTWATCH PROJECT

Improving the Effectiveness of Court Processes  
for Individuals Seeking Stalking Protective Orders

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Multnomah County Family Violence Coordinating Council

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JANUARY 2004



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## Acknowledgements

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## Introduction & Background

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### STALKING AND STALKING PROTECTIVE ORDERS

Stalking protective orders (stalking orders) are an important civil remedy for individuals who feel their personal safety is threatened due to unwanted, repeated and alarming or coercive contact from another person. (For more information regarding the elements required in Oregon's stalking order law, see Appendix A).

To obtain a stalking order in Multnomah County, individuals can petition the court either through an attorney or *pro se* (without an attorney). In addition, the stalking order process can be initiated by a "stalking citation" issued by a law enforcement officer; however, this process is rarely used in Multnomah County. The option to petition the court *pro se* increases accessibility to stalking orders for individuals who might not hire an attorney due to the cost. However, such individuals lack the benefits that come with legal representation.

To address the needs of stalking victims and to minimize their trauma and level of risk, the court and advocates must assume extra responsibility to ensure that the stalking order process is accessible and effective. This is made more important for the following reasons. First, few petitioners have legal representation to help them navigate through the judicial system. Secondly, stalking victims may feel vulnerable and fearful for their own safety, or may mistrust or feel intimidated by the judicial system. Thirdly, victims may have cultural or other barriers impeding access. Fourthly, stalking victims may also be victims of domestic or sexual violence.

### STALKING AND DOMESTIC VIOLENCE

There is a strong correlation between stalking and domestic violence. Eighty-one percent

(81%) of women who are stalked by current or former husbands or cohabitating partners are also physically assaulted by that partner, and 30% are sexually assaulted by that partner (Tjaden & Thoennes, 1998). In addition, stalking behavior is strongly associated with lethal and near-lethal violence against women in intimate partner relationships (McFarlane, Campbell et al., 1999). Other studies have found that stalkers are much more likely to be physically violent if they have had a prior relationship with the victim (Meloy, 1998).

#### *Did you know...*

*59% of female stalking victims and 30% of male stalking victims are stalked by current or former intimate partners (Tjaden & Thoennes, 1998).*

Because of the unique struggles domestic violence victims face and the relationship between domestic violence and stalking, it is important to understand how the court serves domestic violence victims seeking stalking orders.

### APPLYING FOR STALKING PROTECTIVE ORDERS IN MULTNOMAH COUNTY

To apply for a stalking order through the *pro se* process, individuals must go to the Multnomah County Courthouse to file a self-petition stalking complaint (Appendix B). Once the complaint is filed, an *ex parte* hearing is scheduled, usually for the following day. If the judge/referee finds that the elements of the stalking law have been met, given the information provided by the petitioner, the judge/referee grants a temporary stalking order and a required contested hearing is scheduled. Contested hearings, also called final hearings, are typically held three weeks after *ex parte* hearings. Multnomah County Circuit Court referees typically preside over hearings on the stalking order docket. Circuit court judges and referees may occasionally hear stalking order cases if a petitioner or respondent requests that the case be set over to the civil docket.

## THE STALKING COURTWATCH PROJECT

The Family Violence Coordinating Council's (FVCC) Civil Court Subcommittee began studying stalking issues after hearing anecdotally of multiple incidents where stalking victims were unable to obtain stalking orders. The Subcommittee developed a brochure with information about stalking and stalking orders, and initiated the Stalking Courtwatch Project to examine stalking order court processes and outcomes. The goal of the Stalking Courtwatch Project is to increase victim safety and offender accountability by identifying opportunities for increased effectiveness in the Multnomah County Circuit Court system. (See Appendix H for a complete listing of goals and objectives.)

### CONDUCTING THE COURTWATCH

The FVCC Civil Court Subcommittee (Sub-Committee) recruited 11 volunteers who observed 63 *ex parte* hearings and 63 contested hearings from August through December 2001. The cases observed at *ex parte* hearings were not necessarily the same cases observed at contested hearings.<sup>1</sup> Volunteers observed *ex parte* hearings twice per week and almost all of the weekly contested hearings during this observation period.

<sup>1</sup> At the time of the courtwatch, Multnomah County Circuit Court referees typically presided over hearings on the stalking docket. Circuit court judges may hear stalking orders if a petitioner or respondent requests that the case be set over to the civil docket.

Volunteers used data collection forms developed by the Subcommittee to record information related to each hearing. (See data collection forms in Appendices C and D). Information was collected on the following variables:

- demographic information on petitioners and respondents;
  - presence of attorneys, interpreters, advocates, witnesses and evidence;
  - hearing process and rulings;
  - information provided by judges/referees to petitioners and respondents;
  - dynamics between judges/referees, respondents, and petitioners; and,
  - presentation of evidence by petitioners and respondents.

*Oregon's stalking law does not mandate courts to provide self-petition complaint forms. The Multnomah County Circuit Court, however, increased access to stalking orders by creating a self-petition stalking complaint. In counties where self-help forms are not available, individuals must either obtain stalking citations from law enforcement officials, draft their own stalking complaint to petition the court, or obtain the assistance of an attorney.*

In order to review stalking order hearings in the context of domestic violence, volunteers conducted a file review using the Oregon Judicial Information Network (OJIN). Volunteers searched OJIN for related civil cases, such as restraining orders and family law cases.

Volunteers also searched OJIN for related criminal cases, such as protective order violations, assaults and harassment. The existence of a Family Abuse Prevention restraining order or family law case (eg. custody or dissolution) between the parties was assumed to be evidence of a family or domestic partner relationship.

# Findings

## HEARINGS AND RULINGS

Volunteers observed 63 *ex parte* hearings and 63 contested hearings. In general volunteers did not observe both the *ex parte* and the contested hearing. In all, there was total of 99 distinct petitioners, and volunteers only observed two or more hearings for 15 of those 99 petitioners. Thirteen different judges/referees presided over the observed hearings. Seven of them presided over three or fewer hearings.

Of the 63 *ex parte* hearings observed, 31 petitioners (49.2%) were granted temporary stalking orders, 24 petitioners (38.1%) were denied temporary stalking orders, five hearings (7.9%) were canceled and one hearing (1.6%) was set over. Volunteers did not record the ruling for two *ex parte* hearings (3.2%).

Of the 63 final hearings, 19 petitioners (30.2%) were granted permanent stalking orders, one petitioner was granted an order with a time limit, 26 petitioners (41.3%) had their temporary stalking orders dismissed/ vacated, and eight petitioners (12.7%) had their temporary stalking orders continued due to a set over of the hearing. Volunteers did not record the ruling for ten final hearings (15%).

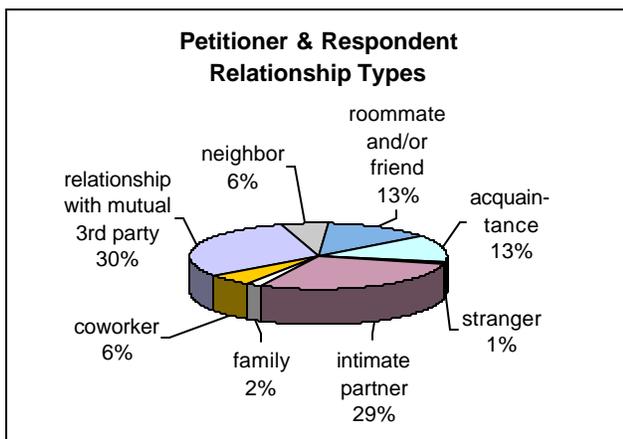
## CHARACTERISTICS OF PETITIONERS AND RESPONDENTS

All petitioners except one initiated the stalking order process by filing a Multnomah County Circuit Court self-petition stalking complaint. Only one individual obtained a stalking citation from law enforcement.

The most common type of relationship between parties was one where each party in the stalking case was involved with a third party (30%). Most frequently, petitioners and respondents had both been in a romantic relationship with the same person at different points in time. The second most common type of relationship between parties was current or former intimate partner (29%). Only two petitioners in this group were married to the respondents at time of the hearing.

**Table 1. Characteristics of Petitioners & Respondents by Hearing Type**

|  | Hearing type       |                     |
|--|--------------------|---------------------|
|  | Ex Parte<br>(n=63) | Contested<br>(n=63) |
| <b>Petitioner a minor</b>  | 2 (3.4%)           | 8 (13.1%)           |
| <b>Respondent a minor</b>  | 1 (2.1%)           | 5 (8.8%)            |
| <b>Advocates</b>   |                    |                     |
| Petitioner had advocate  | 1 (1.6%)           | 2 (3.4%)            |
| Respondent had advocate  | N/a                | 1 (1.6%)            |
| <b>Legal representation</b>                                      |                    |                     |
| Petitioner had attorney  | 2 (3.4%)           | 5 (9.1%)            |
| Respondent had attorney  | N/a                | 2 (3.9%)            |
| <b>Use of Interpreters</b>                                       |                    |                     |
| Petitioner used interpreter                                      | 0 (0%)             | 2 ((3.2%)           |
| Respondent used interpreter                                      | N/a                | 2 (3.2%)            |
| At least one party needed an interpreter, but none was available | 1 (1.6%)           | 1 (1.6%)            |



The ratio of female and male petitioners and respondents is similar to data reported in a national stalking survey, which found that 78% of stalking victims were female and 87% of stalkers were male (Tjaden and Thoennes, 1998). In the stalking hearings observed for this report, females represented 76.2% of petitioners and males represented 70.3% of respondents.

Few parties had legal representation. Two petitioners had attorneys present for *ex parte* hearings. Only five petitioners and two respondents had attorneys for contested hearings.

### INFORMATION PROVIDED BY JUDGES/REFEREES

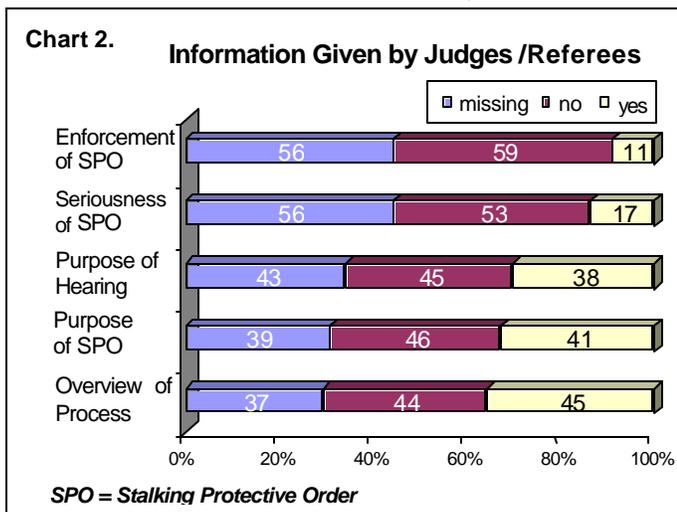
For the most part, judges/referees did not provide parties with information about the purpose of hearings and stalking orders or the seriousness of stalking orders. (See Chart 2.) Based on the data gathered, judges/referees were most likely to provide parties with an overview of court processes (45 hearings) and were least likely to provide information about the enforcement of stalking orders (11 cases).<sup>2</sup>

Judges/referees rarely provided petitioners with referrals (12 cases). On six occasions judges/ referees recommended that petitioners seek relief through telephone harassment laws. Three times judges/referees suggested petitioners consider pursuing civil commitment of respondents. Twice judges/referees suggested that parties needed mental health counseling. In one case, a judge/referee suggested that the parties take their dispute to leaders in their ethnic community.

Assistance to unrepresented parties by judges/referees generally took two forms: first, some judges/referees guided petitioners through the *ex parte* hearings by asking questions that prompted the petitioner to provide specific facts that addressed the elements of the stalking law. Second, some judges/referees gave petitioners information about preparing for contested hearings. Such information usually consisted of the importance of having evidence and witnesses. Assistance was more commonly provided at the *ex parte* stage than at the contested hearing.

### IMPACT OF INFORMATION PRESENTED AT CONTESTED HEARINGS

Not surprisingly, there appeared to be a correlation between petitioner presentation of evidence/witnesses at contested hearings and granting of permanent orders. Few petitioners brought evidence/witnesses to hearings. Petitioners were reported to bring evidence and/or witnesses in 3.8% of *ex parte* hearings and 25.4% of contested hearings. Of petitioners who brought evidence/witnesses to contested hearings, 56.3% were granted permanent stalking orders compared to 37.5% of petitioners who did not bring evidence/witnesses.



### PETITIONER SAFETY

Few safety precautions were taken when both petitioners and respondents were present at a hearing. Safety precautions that were taken included: a judge/referee directed the respondent and his witnesses to wait in the courtroom until a sheriff escorted the petitioner out of the courthouse; a judge/referee requested the same, but a sheriff did not escort the petitioner out of the courthouse; and a judge/referee requested that the respondent leave before the petitioner.<sup>3</sup>

Few safety recommendations were given to petitioners regarding their safety outside of the courthouse. On two occasions, a judge/referee warned the petitioner to be prepared for retaliatory action by the respondent.

<sup>2</sup> Two possible interpretations for the number of missing responses in Chart 2 are that volunteers were unsure of how to answer or they intended to answer “no” by leaving questions blank.

<sup>3</sup> Allowing the respondent to leave before the petitioner could unintentionally place the petitioner at risk by giving the respondent the opportunity to wait for the petitioner.

However, no judges/referees provided petitioners with information about safety planning.

### **OFFENDER ACCOUNTABILITY**

Out of 126 hearings, judges/referees discussed the seriousness of stalking orders in only 17 hearings and enforcement of stalking orders in only 11 hearings. When judges/referees provided advice to parties upon issuing permanent stalking orders, judges/referees were as likely to tell both parties to stay away from each other as they were to direct the remarks only to the stalker, i.e., the respondent. Twice judges/referees told respondents how they could get the stalking order vacated in the future.

It is also important to note that no findings were made in any of the permanent orders that would subject the respondent to federal criminal liability for purchasing or possessing a firearm or ammunition while subject to the order, despite Oregon law which requires the Court to make findings and include terms sufficient to comply with federal firearms laws when applicable (see ORS 163.738(2)(b)). These findings under federal law are: The petitioner must be an intimate partner of the respondent (spouse, former spouse, parent of the respondent's child or cohabits/cohabited with respondent); and the respondent must present a credible threat to the physical safety of the intimate partner or child (see 18 USC 922(g)(8)). It is important to note that two respondents had firearm related charges in OJIN.

### **STALKING ORDER HEARINGS AND VICTIMS OF DOMESTIC VIOLENCE**

Seven petitioners had restraining orders against respondents at the time of their stalking order hearing. Reviewing court files, volunteers also found that 11 respondents had restraining orders against them and four

respondents had stalking orders against them involving parties unrelated to the stalking order hearing. On only two occasions, judges/referees provided petitioners with information about the availability of restraining orders or the interplay between restraining and stalking orders.

Thirty percent (30%) of respondents had criminal charges in OJIN potentially related to petitioners' requests for stalking orders. Of note, six respondents had charges for stalking order violations and one respondent had a charge for a restraining order violation. Respondents may or may not have been convicted of the charges, however.

### **IMPACT OF RESTRAINING ORDERS ON STALKING ORDER DECISIONS**

Neither the stalking order legislation nor the Family Abuse Prevention Act legislation precludes the issuance of both types of orders in particular cases. However, the existence of an RO appeared to reduce the likelihood that a stalking order would be granted, rather than support the need for a stalking order. While 49% of petitioners without restraining orders against the respondents received stalking orders, only 29% of petitioners with restraining orders against the respondents received stalking orders. No permanent stalking orders were granted to petitioners who had restraining orders against respondents. Two of the 19 permanent stalking orders granted were granted against respondents under restraining orders from third parties. In one case, a judge/referee, aware that the petitioner's restraining order against the respondent was vacated, said that the family law court essentially ruled on the stalking order already, so he could not grant one.

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## Recommendations

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The following eleven recommendations are based on the information gathered during the Stalking Courtwatch Project. Recommendations are listed in the four following categories:

- Initiating the Stalking Order Process,
- Calling the Docket,
- During *Ex Parte* and Contested/Final Hearings, and
- Domestic Violence.

### INITIATING THE STALKING ORDER PROCESS

**Recommendation 1: Court self-petition forms should be revised to include language that outlines the three elements required to establish a stalking claim.**

Outlining the elements of a stalking claim on the complaint form will prompt petitioners to provide the court with required factual information. As a result, petitioners will better understand the requirements of the law and will be better prepared to present evidence at their *ex parte* hearings and to respond to questions posed by judges/referees.

Also, outlining the elements may make the court processes more efficient. Of the 63 *ex parte* hearings observed, 43.6% of petitioners were denied stalking orders. After reviewing a complaint that lists the elements, individuals may decide that their case is not appropriate for a stalking order hearing. This may result in fewer inappropriate cases on the stalking order docket, freeing up judicial time and resources.

**Recommendation 2: Information about telephone harassment and trespassing laws should be provided to individuals requesting self-petition complaints.**

In a number of cases, judges/referees who denied temporary stalking orders petitions suggested that telephone harassment or trespassing laws would better address petitioners' circumstances. Distributing information on these laws with stalking order complaint forms might result in fewer inappropriate cases on the stalking order docket. In addition, the court may better serve individuals by immediately directing them to more appropriate remedies

**Recommendation 3: Local law enforcement agencies should increase education and awareness about the use of stalking citations to initiate stalking protective order hearings, and encourage officers to use stalking citations, when appropriate.**

Of the 126 stalking hearings observed, only one was initiated through the law enforcement citation process. In some cases, law enforcement citations may be the more appropriate remedy for stalking victims. Increased training for law enforcement agencies and for advocates about Oregon's stalking laws in general and the use of the law enforcement citation option will improve access for stalking victims.

### CALLING THE DOCKET

**Recommendation 4: At the beginning of *ex parte* and contested hearings, an overview of court procedures and an explanation of the purpose of stalking orders and stalking order hearings should be provided.**

As noted in this report, judges/referees were inconsistent in providing information to unrepresented parties regarding court procedures and the purpose of stalking orders and stalking order hearings. Because so few parties have attorneys, it is important that judges/referees provide the above information to all parties on a routine basis.

Two judges/ referees make it a practice to address all parties in the courtroom before calling the first case. This practice is time efficient and allows judges/referees to provide parties with vital information.<sup>4</sup>

## **DURING *EX PARTE* AND REQUIRED CONTESTED HEARINGS**

**Recommendation 5: Petitioners should be provided with information about security procedures in the courthouse, and protocols should be developed to ensure the safety of petitioners during stalking proceedings.**

Victims of stalking spend a great deal of effort attempting to maximize their personal safety and that of their families and/or household members (*Stalking and Domestic Violence*, 2001). The accessibility of stalking orders is diminished if petitioners feel endangered when attending hearings. Routine safety measures must be taken so petitioners have as little contact as possible with respondents. Such measures should not only enhance the physical safety of petitioners, but should ensure that respondents are not permitted to verbally intimidate petitioners. Early on in the process, the court should provide petitioners

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*Upon issuing a temporary order, one judge/referee described the contested order hearing to the petitioner to allay her safety concerns. He described the layout of the courtroom, explained the hearing process and informed her about the presence of security officers.*

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with information about courthouse/courtroom security, which would specifically address their safety when making court appearances at

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<sup>4</sup> The court must take extra measures for parties needing interpreters.

which respondents will be present. Additional protocols should be developed to address safety and to reduce the risk of contact between the parties following contested hearings, whether the order is issued or not.

**Recommendation 6: Clear information about the enforcement of stalking orders and the consequences of violations should be provided to respondents in order to increase the likelihood of compliance with the order.**

The accessibility and effectiveness of stalking orders are reduced if victims do not feel that respondents will be held accountable for their actions both inside and outside of the courtroom (Keilitz, Davis, Efke, Flango, & Hannaford, 1998). To increase stalker accountability, the court should provide respondents with information that clearly sets out the seriousness with which the court takes the crime of stalking and the consequences of stalking orders violations. This information should be given to respondents in written form and should be reinforced by judges/referees during contested hearings.

**Recommendation 7: If a temporary or permanent stalking order is denied, judges/referees should inform petitioners on a consistent basis that they have a right to petition the Court again for stalking orders in the event the stalking behavior escalates.**

In eleven hearings, volunteers reported that judges/referees gave information to petitioners about returning to court if the behavior of the respondents escalated or if they obtained additional evidence to support their claims. Judges/referees should do this in every case. Petitioners may qualify for the protection of a stalking order in the future, but may be unaware of their right to do so, having been denied a stalking order in the first instance.

**Recommendation 8: Judicial education should be made available regarding the scope and application of the stalking laws.**

On eleven occasions, judges/referees reportedly denied stalking orders for lack of “explicit”, “overt” or “credible” threats. While State v. Rangel, 328 OR 294 (1999), holds that only a proscribable threat can cause reasonable apprehension or fear for *communicative* (verbal or written) contacts, there is no similar requirement for other non-communicative contacts. The courtwatch observations suggest that judges/referees may be applying the Rangel decision to all types of stalking contact, requiring all stalking conduct to carry “explicit” or “overt” threats.

No permanent stalking orders were granted to petitioners with restraining orders, and one judge/referee appeared to deny a temporary stalking order on the basis that the petitioner was recently denied a restraining order. There is nothing that precludes a petitioner who either has a restraining order or has attempted to get one in the past from seeking a stalking order against the same individual.

With respect to both these areas of concern, the availability of judicial education may increase the availability of legal remedies for victims of stalking.

**DOMESTIC VIOLENCE AND STALKING ORDER HEARINGS**

**Recommendation 9: The particular needs domestic violence victims should be considered by the court when reviewing or developing court practices and procedures around the issuance and review of stalking orders.**

A national study found that 59% of female stalking victims and 30% of male stalking victims are stalked by current or former intimate partners (Tjaden and Thoennes, 1998). Cohesive and consistent responses to domestic violence, regardless of whether victims are seeking restraining orders or stalking orders or both, increase victim safety and offender accountability. Practices that

have been proven to be effective in enhancing victims’ safety in the restraining order context should be implemented in intimate partner stalking cases. Also, the use of family law judges, who are familiar with the Family Abuse Prevention Act and who understand the dynamics of domestic violence, to hear stalking order cases involving domestic violence should be considered.

**Recommendation 10: Judicial education should be available on the differences between restraining order and stalking order laws, and on the particular danger in cases involving stalking and domestic violence.**

Since the availability and accessibility of stalking orders can increase the safety of domestic violence victims and improve offender accountability, judges/referees should have available appropriate training. Those involved in the process should have a clear understanding of the differences between restraining orders and stalking orders in terms of scope and available remedies, and of the particular danger that stalking in cases where domestic violence has occurred. To this end, judges/referees may want to consider participation in domestic violence education, especially considering the low numbers of petitioners granted stalking orders who had restraining orders in place.

**Recommendation 11: Written information on a variety of topics relating to laws and procedures that affect victims of stalking should be developed and distributed by the FVCC in partnership with the courts.**

Given the complexity and overlapping nature of the laws and remedies that may apply or be available to victims of stalking, additional written information should be developed to assist victims in making decisions about how to best utilize the legal system. A brochure or pamphlet that explains the hearing process and provides specific information directed to victims who do not have attorneys may be particularly beneficial. Appropriate topics include telephone harassment; firearms; evidence/witnesses; and safety planning.

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# Oregon's Stalking Protective Order Law

Oregon's current stalking law (ORS 30.866 and 163.730 to 163.750) became effective in 1995. A part of this law provides relief for individuals who feel their safety is threatened due to repeated and unwanted contact from another individual. To obtain a stalking order the petitioner (person seeking the order) must demonstrate that the three following elements have been met.

## Examples of contact covered by Oregon's Stalking Law:

- *Coming into the visual or physical presence of an individual*
- *Following an individual*
- *Waiting outside the home, property, place of work or school of an individual or of a member of that person's family or household*
- *Sending or making written or electronic communication*
- *Speaking with an individual by any means*
- *Communicating with an individual through a third person*
- *Committing a crime against an individual*
- *Communicating with a third party who has a relationship to an individual with the intent of affecting the relationship between the two parties*
- *Damaging the other person's home, property, place of work or school*
- *Delivery of objects to an individual*

***Element 1: The respondent (the individual whom the order is being sought against) has engaged in repeated and unwanted contacts that alarm or coerce the petitioner.***

Petitioners must show that the respondent has engaged in at least two unwanted contacts within the past two years. Petitioners must make the respondent aware that the contact is unwanted, even if that means a third party tells the respondent the contact is unwanted. Additionally, due to issues of constitutionality with the drafting of Oregon's first stalking law, the respondent's speech must be "alarming" or "coercive". Non-threatening speech, regardless of it being unwanted, in and of itself does not satisfy this element.

***Element 2: The contacts cause the petitioner reasonable apprehension regarding his or her personal safety or that of the immediate family or household.***

The contacts must be alarming or coercive meaning that the respondent has caused the petitioner to feel apprehensive or fearful for their personal safety or the safety of immediate family members or individuals living in their household due to the threatening nature of the contacts.

***Element 3: It is objectively reasonable for a person in the victim's situation to be alarmed and feel apprehension for his or her personal safety.***

Situations occur where individuals perceive behavior to be alarming, but others, in the victim's same situation, would not consider the same behavior alarming. Element three exists to provide an objective basis for what would otherwise be a largely subjective decision established on the perceptions of only the petitioner.

Not available in electronic form  
(Multnomah County Circuit Court Stalking Order Petition)



**COURTWATCH**  
**STALKING PROTECTIVE ORDERS**  
*Ex Parte Hearing*

Date: \_\_\_\_\_  
 Observer's Name: \_\_\_\_\_  
 Judge: \_\_\_\_\_  
 Case number: \_\_\_\_\_  
 Petitioner: \_\_\_\_\_  
 Respondent: \_\_\_\_\_

Length of Hearing: \_\_\_\_\_ minutes

THE PARTIES

|   |   |   |
|---|---|---|
| Sex of Petitioner   | M | F |
| Sex of Respondent   | M | F |
| Relationship of Parties (spouse, family member, sexually intimate partner, roommate, landlord/tenant, friend, acquaintance, etc.) _____ |   |   |
| Was the petitioner a minor?   | Y | N |
| Was the respondent a minor?   | Y | N |
| Did the petitioner need an interpreter?   | Y | N |
| If yes, was a court interpreter present?  | Y | N |
| If an interpreter was needed, but not present, what happened? _____   |   |   |
| Did the petitioner have an attorney?  | Y | N |
| Was an advocate present on behalf of the petitioner?  | Y | N |

THE HEARING

|   |   |   |
|---|---|---|
| Did the judge provide an overview of the court process?   | Y | N |
| If yes, what was said? _____  |   |   |
| Did the judge explain the purpose of stalking protective orders?  | Y | N |
| If yes, what was said? _____  |   |   |
| Did the judge explain the purpose of the hearing?   | Y | N |
| If yes, what was said? _____  |   |   |
| Did the judge take testimony from the petitioner?   | Y | N |
| If yes, what was said? _____  |   |   |
| What was the format of the hearing? _____   |   |   |
| For those parties that were unrepresented, did the judge explain the hearing process or assist that party in any other way? _____ |   |   |
| Did the judge make any safety assurances to protect the petitioner?   | Y | N |
| If yes, please explain: _____   |   |   |

Did the judge give petitioner any referrals to outside agencies? Y N  
If yes, which agencies and why was the referral made? \_\_\_\_\_

\_\_\_\_\_

### THE ORDER

Did the judge grant a temporary order? Y N  
What reasoning did the judge give for granting, limiting or vacating the order?

\_\_\_\_\_

Did the judge place a time limit on the order? Y N  
If yes, please explain: \_\_\_\_\_

Did the judge make VAWA findings? (If unclear, look in court case file) Y N  
If yes, please explain: \_\_\_\_\_

Did the judge make any statements in regard to the seriousness of the order and  
the ramifications of violating it? Y N  
If yes, what was said? \_\_\_\_\_

Did the judge explain how the order is enforced? Y N  
If yes, what was said? \_\_\_\_\_

Did the judge give information on restraining orders and the interplay between stalking  
orders and restraining orders? \_\_\_\_\_

### OTHER

Please describe the dynamics between the judge and the petitioner: \_\_\_\_\_

\_\_\_\_\_

Did the petitioner present well and act appropriately in the courtroom? Y N  
If not, please explain: \_\_\_\_\_

If the sheriff was called upon in the courtroom:

Please describe the interaction between the sheriff and the petitioner: \_\_\_\_\_

\_\_\_\_\_

Please describe any additional information or event that you believe is significant:

\_\_\_\_\_

**ADDITIONAL INFORMATION:  
OUTSIDE OF THE COURTROOM**

**FILE REVIEW:**

Was this case initiated by:

- Multnomah County Self- Petition Court Form
- Petitioner's Own Self- Petition

**POTENTIALLY RELATED CIVIL CASES:**

Conduct an OJIN Search

Do these parties have:

- A restraining order
- A divorce case or other family law case

If yes, please describe:

Who is the petitioner? \_\_\_\_\_

Who is the respondent? \_\_\_\_\_

What is the date of the petition? \_\_\_\_\_

What is the date of the final order? \_\_\_\_\_

What was ordered? \_\_\_\_\_

**POTENTIALLY RELATED CRIMINAL CASES:**

Does petitioner have a criminal case? Y      N

If yes, please describe:

What was the charge? \_\_\_\_\_

What was the date of the charge? \_\_\_\_\_

How was the case resolved? \_\_\_\_\_

Does respondent have a criminal case? Y      N

If yes, please describe:

What was the charge? \_\_\_\_\_

What was the date of the charge? \_\_\_\_\_

How was the case resolved? \_\_\_\_\_

**COURTWATCH  
STALKING PROTECTIVE ORDERS  
Contested (Final) Case Hearing**

Date: \_\_\_\_\_  
 Observer's Name: \_\_\_\_\_  
 Judge: \_\_\_\_\_  
 Case number: \_\_\_\_\_  
 Petitioner: \_\_\_\_\_  
 Respondent: \_\_\_\_\_

Type of Hearing:  
 Preliminary Law Enforcement Citation  
 Permanent

Length of Hearing: \_\_\_\_\_ minutes

THE PARTIES

|   |   |   |
|---|---|---|
| Sex of Petitioner   | M | F |
| Sex of Respondent   | M | F |
| Relationship of Parties (spouse, family member, sexually intimate partner, roommate, landlord/tenant, friend, acquaintance, etc.) _____ |   |   |
| <hr/>   |   |   |
| Was the petitioner a minor?   | Y | N |
| Was the respondent a minor?   | Y | N |
| Did the petitioner need an interpreter?   | Y | N |
| If yes, was a court interpreter present?  | Y | N |
| Did the respondent need an interpreter?   | Y | N |
| If yes, was a court interpreter present?  | Y | N |
| If an interpreter was needed, but not present, what happened? _____   |   |   |
| <hr/>   |   |   |
| Did the petitioner have an attorney?  | Y | N |
| Did the respondent have an attorney?  | Y | N |
| Was an advocate present on behalf of the petitioner?  | Y | N |
| Was an advocate present on behalf of the respondent?  | Y | N |

THE HEARING

IF THE HEARING WAS NOT HELD:

|   |   |   |
|---|---|---|
| Was the hearing cancelled?  | Y | N |
| If yes, why? _____  |   |   |
| <hr/>   |   |   |
| Did the judge set over the hearing?   | Y | N |
| If yes, when is the hearing scheduled for and why did the judge postpone the hearing? |   |   |
| _____   |   |   |

IF THE RESPONDENT WAS NOT PRESENT:

Did the judge issue a warrant? Y N  
Did the judge take testimony from the petitioner? Y N  
If yes, what was said? \_\_\_\_\_

Did the judge grant a permanent stalking protective order? Y N  
Did the judge continue the temporary order? Y N  
Did the judge dismiss the order? Y N

**IF THE HEARING WAS HELD:**

Did the judge provide an overview of the court process? Y N  
If yes, what was said? \_\_\_\_\_

Did the judge explain the purpose of stalking protective orders? Y N  
If yes, what was said? \_\_\_\_\_

Did the judge explain the purpose of the hearing? Y N  
If yes, what was said? \_\_\_\_\_

What was the format of the hearing? \_\_\_\_\_

For those parties that were unrepresented, did the judge explain the hearing process or assist that party in any other way? \_\_\_\_\_

Did the judge allow each party to tell their story? Y N  
If no, please explain: \_\_\_\_\_

Did either party call witnesses or introduce evidence? Y N  
Please explain: \_\_\_\_\_

Did the judge make any safety assurances to protect the petitioner? Y N  
If yes, please explain: \_\_\_\_\_

Did the judge give either party any referrals to outside agencies? Y N  
If yes, which agencies and why was the referral made? \_\_\_\_\_

**THE ORDER**

Did the judge grant a permanent order? Y N  
If no, please explain: \_\_\_\_\_

What reasoning did the judge give for granting, limiting or vacating the order?  
\_\_\_\_\_

Did the judge place a time limit on the order? Y N  
If yes, please explain: \_\_\_\_\_

Did the judge order the respondent to submit to a mental health evaluation? Y N

Did the judge make VAWA findings? (If unclear, look in court case file) Y N  
If yes, please explain: \_\_\_\_\_

Did the judge make any statements in regard to the seriousness of the order and the ramifications of violating it? Y N  
If yes, what was said? \_\_\_\_\_

Did the judge explain how the order is enforced? Y N  
If yes, what was said? \_\_\_\_\_

Did the judge give information to either party on restraining orders and the interplay between stalking orders and restraining orders? \_\_\_\_\_

OTHER

Please describe the dynamics between the judge and the petitioner: \_\_\_\_\_  
\_\_\_\_\_

Please describe the dynamics between the judge and the respondent: \_\_\_\_\_  
\_\_\_\_\_

Did the petitioner present well and act appropriately in the courtroom? Y N  
If not, please explain: \_\_\_\_\_

Did the respondent present well and act appropriately in the courtroom? Y N  
If not, please explain: \_\_\_\_\_

If the sheriff was called upon in the courtroom:

Please describe the interaction between the sheriff and the petitioner: \_\_\_\_\_  
\_\_\_\_\_

Please describe the interaction between the sheriff and the respondent: \_\_\_\_\_  
\_\_\_\_\_

Please describe any additional information or event that you believe is significant: \_\_\_\_\_  
\_\_\_\_\_

**ADDITIONAL INFORMATION:  
OUTSIDE OF THE COURTROOM**

**FILE REVIEW:**

Was this case initiated by:

- Multnomah County Self- Petition Court Form
- Petitioner's Own Self- Petition
- Law Enforcement Citation

**POTENTIALLY RELATED CIVIL CASES:**

Conduct an OJIN Search

Do these parties have:

- A restraining order
- A divorce case or other family law case

If yes, please describe:

Who is the petitioner? \_\_\_\_\_

Who is the respondent? \_\_\_\_\_

What is the date of the petition? \_\_\_\_\_

What is the date of the final order? \_\_\_\_\_

What was ordered? \_\_\_\_\_

**POTENTIALLY RELATED CRIMINAL CASES:**

Does petitioner have a criminal case? Y      N

If yes, please describe:

What was the charge? \_\_\_\_\_

What was the date of the charge? \_\_\_\_\_

How was the case resolved? \_\_\_\_\_

Does respondent have a criminal case? Y      N

If yes, please describe:

What was the charge? \_\_\_\_\_

What was the date of the charge? \_\_\_\_\_

How was the case resolved? \_\_\_\_\_

# Restraining Order (RO) v. Stalking Protective Order (SPO): A Comparison

## BACKGROUND

Behavior of stalkers often correlates with behavior of batterers (manipulation and control issues).  
Individuals can have both a RO and a SPO

| <b>RESTRAINING ORDERS</b>  | <b>STALKING PROTECTIVE ORDERS</b>   |
|--|---|
| <b>PROCEDURE</b>   |   |
| A civil remedy but violation is prosecuted as contempt of court by the district attorney   | A civil remedy but violation is prosecuted as a crime by the district attorney  |
| Statutorily mandated forms and instruction booklet   | No mandated forms (may change)  |
| One procedure  | Two procedures: Self-Petition Route (court filing; forms are available in a limited number of counties) and Law Enforcement Route (law enforcement citation; no protection until mandated court hearing which is 3 days from date of service of citation)   |
| No filing, service or hearing fees   | No filing fee unless asking for damages<br>No service or hearing fees   |
| Heard by family court judges if such a designation in the county   | Typically heard by non-family court judges or referees  |
| Hearing only if requested by respondent  | Hearing is automatic with both procedures; respondent's failure to appear is contempt of court  |
| <b>REQUIREMENTS</b>  |   |
| Some type of qualifying relationship required  | Qualifying relationship not required  |
| Available to minor only in limited situation (may need a guardian ad litem)  | Available to minor through guardian ad litem or parent  |
| Minor respondent cannot be brought into court as named respondent  | Minor respondent can be brought into court as named respondent  |
| Elements: 1) Abuse (attempting to cause or intentionally, knowingly or recklessly causing bodily injury; intentionally knowingly or recklessly placing another in fear of imminent bodily injury; or causing another to engage in involuntary sexual relations be force or threat of force), and 2) petitioner in imminent danger of further abuse | Elements: 1) Respondent has intentionally, knowingly or recklessly engaged in two or more unwanted contacts that alarm or coerce the petitioner, 2) the contacts cause the petitioner reasonable apprehension regarding his or her personal safety or that of the immediate family or household, and 3) it is objectively reasonable for petitioner to have been alarmed or coerced by the contacts |
| Need one incident  | Need two contacts   |
| Behavior occurring in past 6 months (tollled if respondent incarcerated or living more than 100 miles away)  | Behavior occurring in past 2 years  |

| <b>RESTRAINING ORDERS</b>   | <b>STALKING PROTECTIVE ORDERS</b>   |
|---|---|
| Preponderance of the evidence standard  | Probable cause standard for issuance of citation under law-enforcement route or for <i>ex parte</i> hearing under self-petitioner route; preponderance of the evidence standard for permanent order |
| <b>RELIEF</b>   |   |
| No provision for mental health evaluation or treatment  | If law-enforcement route, court may order mental health evaluation and if indicated by evaluation, treatment  |
| No statutory provision for arrest warrant   | Judges <b>must</b> issue arrest warrant if law enforcement route and respondent fails to appear; Judge <b>may</b> issue arrest warrant if self-petition route and respondent fails to appear;       |
| In effect for 1 year; renewable if statutory standard met   | Unlimited duration if permanent order, unless duration is set by Judge  |
| Award of custody/parenting time   | No award of custody/parenting time  |
| Can order respondent to vacate the residence  | Cannot order respondent to vacate the residence   |
| Attorney fees are available   | Attorney fees are available   |
| Emergency monetary relief   | No emergency monetary relief but emotional distress, punitive and compensatory damages are available  |
| No specific provision for firearm/ammunition dispossession in statute or statutory form; under other relief" on order unless county has included the provision in local forms                           | No provision for firearm/ammunition dispossession in statute  |
| If VAWA prerequisites met, federal criminal liability when respondent possesses/purchases firearm/ammunition during pendency of order   | Credible threat finding must be made a part of the court order for federal criminal liability   |
| <b>ENFORCEMENT</b>  |   |
| Petitioner cannot violate   | Petitioner cannot violate   |
| Mandatory arrest laws apply   | Mandatory arrest laws apply   |
| Sheriffs are to enter into National Crime Info Center (NCIC) and LEDS   | Sheriffs are to enter into National Crime Info. Center (NCIC) and LEDS  |
| Good throughout Oregon  | Good throughout Oregon  |
| Police and courts must enforce out of state orders (VAWA Full Faith and Credit)   | Police and courts must enforce out of state orders (VAWA Full Faith and Credit)   |
| Violation is contempt of court punishable by a fine of up to \$500 or 1% of annual gross income, whichever is greater, or a jail term of up to six months, or both. Other sanctions may also be imposed | Violation is a class A misdemeanor or class C felony if prior convictions for stalking or for violation of SPO  |

Not available in electronic form  
(Stalking Protective Order)

# Aggregate Data Table

|   | <u>Ex Parte Hearings</u> | <u>Contested Hearings</u> |
|---|--------------------------|---------------------------|
| <b>Hearings and Rulings</b>                           |                          |                           |
| <b>Hearings Held</b>                                  |                          |                           |
| Temporary SPO   | 31 (55.4%)               | n/a                       |
| No Temp. SPO  | 24 (43%)                 | n/a                       |
| Set over of Hearing                                   | 1 (1.8%)                 | 8 (12.7%)                 |
| Permanent SPO   | n/a                      | 19 (30%)                  |
| Temp. SPO vacated                                     | n/a                      | 26 (41.2%)                |
| Ruling unknown  | 2 (3.5%)                 | 10 (16%)                  |
| Credible Threat Findings                              | 0 (0%)                   | 0 (0%)                    |
| <i>Total Number of Hearings</i>                       | 63 (100%)                | 63 (100%)                 |
| <b>Reasons for hearings being canceled or setover</b> |                          |                           |
| Petitioner absent                                     | 4 (80%)                  | 5 (29.4%)                 |
| Respondent absent                                     | n/a                      | 5 (29.4%)                 |
| Both parties absent                                   | n/a                      | 6 (35.3%)                 |
| Other   | 1(20%)                   | 1 (6%)                    |
| <b>Length of hearings</b>                             |                          |                           |
| 0-1 min.  | 4 (6.7%)                 | 9 (15.8%)                 |
| 2-6 min.  | 12 (20%)                 | 11 (19.3%)                |
| 7-10 min.   | 27 (45%)                 | 11 (19.3%)                |
| 11-15 min   | 10 (16.6%)               | 9 (15.9%)                 |
| 16-20 min.  | 5 (8.4%)                 | 10 ( 17.6%)               |
| 21+ min.  | 2 (3.4%)                 | 7 (12.6%)                 |
| Not indicated   | X                        | X                         |
| <b>Characteristics of Petitioners and Respondents</b> |                          |                           |
| <b>Sex</b>  |                          |                           |
| Petitioner female                                     | 46 (73%)                 | 50 (79.4%)                |
| Respondent female                                     | 19 (31.1%)               | 18 (28.6%)                |
| Petitioner male                                       | 17 (27%)                 | 13 (20.6%)                |
| Respondent male                                       | 42 (68.9%)               | 45 (71.4%)                |
| <b>Minors</b>   |                          |                           |
| Petitioner a minor                                    | 2 (3.4%)                 | 8 (13.1%)                 |
| Respondent a minor                                    | 1 (2.1%)                 | 5 (8.8%)                  |
| <b>Relationship between Parties</b>                   |                          |                           |
| Acquaintances   | 28 (50%)                 | 26 (45.6%)                |
| Friend/Roommate                                       | 4 (7.2%)                 | 8 (14.3%)                 |
| Coworker  | 3 (5.4%)                 | 5 (8.8%)                  |
| Intimate Partner                                      | 17 (30.4%)               | 13 (22.8%)                |
| Spouse  | 2 (3.6%)                 | 1 (1.8%)                  |
| Family Member   | 1 (1.8%)                 | 1 (1.8%)                  |
| Other   | 1 (1.8%)                 | 3 (5.3%)                  |
| <b>Presence of Attorneys</b>                          |                          |                           |
| Petitioner had attorney                               | 2 (3.5%)                 | 5 (8.8%)                  |
| Respondent had attorney                               | n/a                      | 2 (3.5%)                  |

Ex Parte HearingsContested Hearings

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**Characteristics of Petitioners and Respondents continued**

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**Presence of Advocates**

|                         |          |          |
|-------------------------|----------|----------|
| Petitioner had advocate | 1 (1.8%) | 2 (3.5%) |
| Respondent had advocate | n/a      | 1 (1.8%) |

**Use of interpreters**

|                                      |          |          |
|--------------------------------------|----------|----------|
| Petitioner needed interpreter        | 2 (3.5%) | 1 (1.7%) |
| Interpreter available for petitioner | 1 (1.7%) | 1 (1.7%) |
| Respondent needed interpreter        | n/a      | 2 (3.5%) |
| Interpreter used by respondent       | n/a      | 2 (3.5%) |

**Presentation of evidence/witnesses**

|   |          |          |
|---|----------|----------|
| Petitioner brought evidence<br>and/or witnesses | 2 (3.5%) | 7 (11%)  |
| Respondent brought evidence<br>and/or witnesses | n/a      | 6 (9.5%) |

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**Number of hearings volunteers reported judges/referees to have provided the following information**

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|                                     |    |    |
|-------------------------------------|----|----|
| Purpose of hearing                  | 32 | 6  |
| Purpose of SPO                      | 33 | 8  |
| Court processes                     | 32 | 13 |
| Assistance to <i>pro se</i> parties | 28 | 9  |
| Safety                              | 6  | 4  |
| Referrals                           | 8  | 3  |
| Seriousness of SPOs                 | 5  | 12 |
| Enforcement of SPOs                 | 2  | 9  |
| Restraining orders v. SPOs          | 1  | 0  |

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## STALKING COURTWATCH PROJECT: GOALS AND OBJECTIVES

The goal of the Stalking Courtwatch Project is to increase victim safety and offender accountability by reviewing the stalking protective order process and outcomes in Multnomah County and identifying gaps and opportunities for increased effectiveness. The Stalking Courtwatch Project will observe individuals cases and review the Oregon Justice Information Network (OJIN) information in order to gain an understanding of the court process and outcomes for stalking protective orders in general, and particularly to gather information about the process and outcomes for domestic violence victims seeking stalking protective orders. The Stalking Courtwatch Project will examine the following areas:

### Process:

- General review of the petition and hearing process (timeliness; efficiency; accessibility).
- How many cases are initiated by self-petition vs. law enforcement citation?
- Is enough time allowed to effectively hear these cases?
- Is information about other resources available to stalking victims?

### Outcomes:

- How many orders are requested?
- How many orders are issued *ex parte*?
- How many orders are upheld at permanent hearings?
- What is the duration of the orders requested?
- What specific protections are the judges/referees ordering?
- In what ways are stalkers held accountable?

### Domestic Violence Issues:

- How many stalking petitioners are domestic violence victims?
- How many of the domestic violence related stalking protective orders are granted compared to non-domestic violence related stalking orders?
- How do the orders help assure victim safety?
- Are there changes that could be made that would make the stalking order process more effective in helping domestic violence victims?
- When domestic violence is an issue, do the judges hearing stalking cases demonstrate an awareness/understanding of domestic violence issues? Could domestic violence related stalking cases be more appropriately handled by family law judges?