

Protective Orders: Criminal Lawyer or Family Lawyer

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It may be best to involve a criminal defense attorney in a protective order case because the consequences often extend far beyond family court. Although protective order proceedings are technically civil matters, they can create significant criminal, constitutional, and long-term legal issues.

Hidden Criminal Risks in Protective Order Cases

Allegations made during a protective order hearing may expose a person to potential criminal investigation or prosecution. Statements made under oath in a protective order proceeding can later be used in related criminal cases involving assault, harassment, stalking, or violations of court orders. A criminal attorney is trained to evaluate those risks and help avoid admissions that could later expose criminal exposure.

In addition, protective orders can carry serious restrictions that resemble criminal sanctions. A final order may require someone to leave their home, lose firearm rights, avoid contact with family members, or face immediate arrest for any alleged violation. Violating a protective order can itself become a criminal offense, even if the underlying family dispute remains unresolved.

Protective orders can affect related family law matters, including custody and visitation. Findings of abuse may later influence custody decisions under the “best interests of the child” standard. Because of that overlap, coordination between family law strategy and criminal defense strategy is often critical. Having a family lawyer represent you at a protective order hearing may appear as a posturing tactic to the judge in your family law case.

There are also collateral consequences that many people do not initially consider. A protective order can influence employment, professional licenses, military status, security clearances, immigration matters, and housing opportunities, which may impact a family law case or a criminal matter.

In most cases, the best approach involves both a family law attorney and a criminal defense attorney working together. Family law counsel may focus on custody, divorce, and long-term parenting issues, while criminal counsel focuses on avoiding criminal exposure.