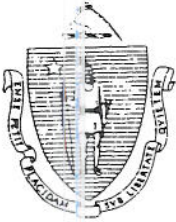


5. Recommended Guidelines Regarding (1) 209A actions against active probationers; (2) Enforcement of stay-away orders, issued by Commissioner of Probation Donald Cochran on October 12, 1993



MASSACHUSETTS TRIAL COURT  
OFFICE OF COMMISSIONER OF PROBATION  
ONE ASHBURTON PLACE  
BOSTON, MA 02108-1612

(617) 727-5300

DONALD COCHRAN  
COMMISSIONER

TO: Chief Probation Officers and Probation Officers-In-Charge  
Superior, District and Juvenile Court Departments

FROM: Donald Cochran, Commissioner *DC*

DATE: October 12, 1993

RE: RECOMMENDED GUIDELINES REGARDING: 1.) 209A actions  
against active probationers 2.) Enforcement of  
stay-away orders

=====

1.) The issuance of a 209A order against an active probationer, when extended after a 10 day hearing, should result in a surrender notice being issued when A.) the offense underlying the current probation is one that led to "mandatory maximum" supervision; or B.) the allegations contained in the 209A complaint form alleged that the probationer "caused (victim) physical harm" or "caused (victim) unwillingly to engage in sexual relations by force, threat, or duress"; or C.) the record reflects a history of assaultive offenses.

Under other circumstances, a case review before an (A)CPO should ensue, allowing for consideration of whether surrender proceedings should nonetheless be initiated.

In any event the offender should be confronted regarding the 209A petition, and the underlying facts, and put on notice regarding the jeopardy which attaches to similar behavior in the future and the possibility of surrender proceedings being initiated.

2.) Enforcement of court-ordered stay-away orders should include the execution of a notice to the victim, within 7 days of the commencement of probation, in which she/he states her/his wishes regarding contact from a probation officer. The victim should indicate on an appropriate form whether periodic contact by a probation officer is preferred, and at what frequency, or whether the victim would rather leave it that she/he will contact the respective probation officer if there is a violation of the stay-away order.

At a minimum, the probation officer should contact the victim at the time of any "risk/need" reassessment, in those instances where the victim has not otherwise been in contact with the probation officer.

It was acknowledged that batterers programs are a potential source of information regarding unlawful contact, but mandatory contact with the program on this point was not recommended, provided the other requirements were met.

Trial Court of the Commonwealth  
Taunton Division  
15 Court St.  
Taunton, MA 02780  
(508) 824-5815

Commonwealth  
v.

#

As part of the disposition of the above-captioned case I have been informed that during the period of probation the court has imposed an order for the defendant to stay away from me. To insure that this order is being complied with I elect the following:

\_\_\_\_\_ If the need arises I will contact the supervising probation officer. I have been informed of his\her name and telephone number.

\_\_\_\_\_ I prefer to be contacted on a monthly basis by the supervising probation officer.

\_\_\_\_\_ I prefer to be contacted every three months by the supervising probation officer.

\_\_\_\_\_ I prefer to be contacted every \_\_\_\_\_ months by the supervising probation officer.

\_\_\_\_\_ I prefer that the probation office monitor compliance of this order through the batterer's program or victim witness advocate of the court and not with me directly.

It is my understanding that I may change my position at any time and acknowledge that I have received a copy of this election.

\_\_\_\_\_  
(signed)



THE COMMONWEALTH OF MASSACHUSETTS  
 SUPERIOR COURT FOR SUFFOLK COUNTY  
 PROBATION OFFICE  
 ROOM 707, COURT HOUSE, BOSTON 02108

Telephone 725-8251

JOHN F. CREMENS, Jr.  
 CHIEF PROBATION OFFICER

RE: SPECIAL CONDITION  
 PROBATION

Dear

Please be advised that in the case of the Commonwealth -vs

\_\_\_\_\_, Judge \_\_\_\_\_

imposed a special condition of probation that the probationer, \_\_\_\_\_  
 \_\_\_\_\_, is to have no contact either directly  
 or indirectly with you nor is he/she to see you.

If you see him/her or if you detect or suspect him/her of violating the  
 terms of the Judge's order, in that he/she has tried to see you or contact you,  
 or someone has tried to contact you on his/her behalf, please call my office  
 immediately at (617) 725-8251 or come to my office in order that we may personally  
 discuss this matter.

You should also report this violation to the local Police Department.

The case is assigned to Probation Officer \_\_\_\_\_,  
 telephone number \_\_\_\_\_ and in his/her absence please talk to any  
 Assistant Chief Probation Officer available.

Very truly yours,

JOHN F. CREMENS, JR.  
 CHIEF PROBATION OFFICER